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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE:

NATIONAL ORGANIC STANDARDS BOARD MEETING (NOSB)

Meeting held on the 13th day of May, 2003

at 8:20 a.m.

Austin, Texas

TRANSCRIPT OF PROCEEDINGS

INDEX

P R O C E E D I N G S

May 13, 2003

THE CHAIRMAN: I=d like to call to order the meeting of the National Organic Standards Board. I apologize for getting a little bit of a late start here but we had some technical issues to resolve, and our court reporter is set up. I want to welcome everybody here to the meeting. We do have time both days for public comment, and if you have not signed up for public comment yet, please do so, so that we can take you in sequence. And since our last meeting a couple of things to announce. We do have a new Board member that I=d like to welcome to the Board, Andrea Caroe, who has been appointed. We look forward to working with her, and she=s jumped in already with both feet and has been very helpful in our interim since the last meeting. Also, just as a point of personal privilege would like to note one of our Board members has recently been appointed to an endowed chair at the University of Minnesota of what=s the...

MR. RIDDLE: Agriculture systems, senior fellow is my title.

THE CHAIRMAN: Senior fellow. So I want to

congratulate Jim on the appointment, and he=s going to talk about that in just a little bit. But before we get started with the meeting, I=d like to go down the table and have the Board members just introduce themselves very briefly who they are, where they=re from, and what position they hold on the Board, which slot, so start off with I think we got Dennis down there. I can=t make eye contact at this point.

MR. HOLBROOK: Good morning. Dennis Holbrook. I=m from Texas. I=m a grower representative.

MS. OSTIGUY: Nancy Ostiguy. Pennsylvania, Penn State, environmental representative.

MS. KOENIG: Rose Koenig from Gainesville, Florida, producer, if I can remember what I am.

MR. BANDELE: Owusu Bandele, Louisiana, producer.

MS. CAROE: Andrea Caroe, San Diego, environmental.

MS. CAUGHLAN: Goldie Caughlan, Seattle, consumer representative.

MR. KING: Mark King, Indianapolis, retail representative.

MR. CARTER: Dave Carter, Colorado, consumer representative, and, Jim, when you introduce yourself

just explain a little bit too about the...

MR. RIDDLE: Okay. Jim Riddle, Minnesota, certifier representative. And this project is a one-year appointment, and two of the things that I=m going to be working on, one, the academic research will be to look at the various European policies that have been in place for the last 10 or 12 years supporting organics and what=s worked and what hasn=t, and make recommendations both for Minnesota and for the U.S. based on the successes in Europe. And then the other part will be to do an inventory of organic livestock research needs and help focus the faculty, the livestock faculty at the university on some of those needs and so there I am requesting anyone who has ideas or sees needs in organic livestock research area to please get those to me and I can help channel them into the university. Thanks.

MS. BURTON: Kim Burton, handler representative, Chico, California.

MR. O=RELL: Kevin O=Rell, Colorado, handler representative.

MS. GOLDBURG: Becky Goldburg, environmental representative, New York.

MS. COOPER: Ann Cooper, consumer rep, New

York.

MR. LACY: Mike Lacy from Athens, Georgia, science representative.

MR. SIEMON: George Siemon from Wisconsin, farmer rep.

THE CHAIRMAN: Thank you. And it=s good that the Board gets along here because we=re in very tight corners up here this morning. We=re going to try and address that and at least before the end of the meeting have it so we can make some eye contact with each other. Just there have been a lot of activities since our last full Board meeting in October. One thing that I would just say for the record is that we had a planning session that I=ll talk about in a minute but the other thing is that the Board as the issue arose over the organic feed and some of the things that were going on Capitol Hill, the Board did send two letters to the Secretary of Agriculture, the first one expressing concern about the issue itself. And then during our planning session in Washington, D.C. the Secretary made her statement opposing the waiver on the organic feed. We issued another letter to the Secretary, and I even had an opportunity to meet with the Secretary, discuss it at that time, and appreciate the work that the

department did on that issue and appreciate the outcome of that. The other thing is that we have been engaged in some planning as a Board. In February the department helped us put together a meeting in Washington, D.C., a two-day meeting, in which we engaged in the start of some strategic planning. We met yesterday afternoon as a Board to do some follow up on that. And just to review some things very quickly, I did prepare a summary this morning that I gave to members of the Board. But our objectives in doing this process is really two fold. Number one is we wanted to strengthen the Board=s ability to act as an expert resource to the department, our effectiveness to give input on the rule and the implementation, and, secondly, to improve our communication and our collaboration with the NOP staff. We did come out in February with a draft vision statement and mission statement which we will bring up when we get to the Board policy manual, and identified some priorities to work on. Yesterday the Board met informally to talk about that again and to move that process along and specifically talked about the Board committee structure from the standpoint of our committees really address two areas. Number one is the materials issue, and number two is some of the policy,

the big picture issues, and so we are working on some areas, number one, the processing committee will likely be renamed the handling committee just to be more consistent with the language that=s in the rule but also to have a co-chair on each of the handling crops and livestock committee that will serve as an automatic liaison to the materials committee and will help then with that communication back and forth as we move some of those materials through the process. We also talked about in our two committees that are more policy oriented, that being the accreditation and the international committee right now with the lack of some of the things that we have had within our purview as far as the international committee we are probably going to put that on the shelf right now. Our accreditation committee, we=re going to engage in trying to take a look given the new rule of the implementation of the rule what is sort of redefining the role of the accreditation committee. And then third is we are looking at creating a new committee that would be called a strategic planning committee or a quality committee or something. We haven=t defined that. It will help us prioritize those issues as a Board that we bring forward as recommendations to the Secretary and help us make

sure that we=re working on recommendations where we can be more effective. And then finally we talked about some issues concerning our communication with the NOP, particularly looking at a decision tree process that I think will be very helpful in trying to have a consistent process between the Board=s decision tree and the department=s decision tree. We will be working to have a meeting summary developed at the end of the meeting today. Myself, the secretary, and the committee chairs will meet to develop a summary of the meeting today so that we will have more of a real time summary of the meeting and can help perhaps facilitate in getting the minutes done and posted and be a little more expedient on that. And then in looking between now and our next Board meeting is to really have a time frame in which our committees address the larger policy issues, get that work done 60 days before the next meeting so that we have plenty of time for things to get posted, get public comment back, and then also that we have the time within the 60 days prior to the meeting to wrap up our work on materials. So that=s a quick summary of what we talked about at the meeting yesterday. We will bring up some of this stuff as we go forward particularly the vision and mission statement in our

policy, and I think Barbara may address some of this stuff with the decision tree during her report. So that=s all I have as far as the report. Let me just then open it up. We have the agenda in front of you. And are there any additions or changes to the agenda that=s posted? Jim.

MR. RIDDLE: Yeah, just one addition, and that is before we adjourn tomorrow afternoon, we do need to set the date for the next meeting, date and location for the next meeting. And we also discussed yesterday the idea of scheduling further out so that=s something else. At least we need to finalize that.

THE CHAIRMAN: Okay. So noted. Any other changes? Okay. Is there a motion to approve this agenda as our meeting agenda?

MR. RIDDLE: So moved.

THE CHAIRMAN: It=s been moved. Is there a second?

MR. KING: Second.

THE CHAIRMAN: Moved and seconded. Discussion. Hearing none, all in favor say aye. Opposed, same sign. Motion carries. This will be our meeting agenda. This then takes us to the approval of the minutes of our last two full Board meetings. We

have the minutes of the September, 2002 meeting, which minutes have been previously circulated to the Board. I=ll call upon the secretary.

MR. RIDDLE: Well, I would open it up by moving the approval first of that September minutes.

THE CHAIRMAN: Okay. There=s been a motion. Is there a second?

MS. OSTIGUY: Second.

THE CHAIRMAN: It=s been seconded by Nancy. Is there discussion on the September, 2002 minutes? Seeing none, all those in favor of approving these minutes as circulated say aye. Opposed, same sign. Motion carries. Then we will move to the October, 2002 minutes. Moving to the secretary.

MR. RIDDLE: I would also move the approval of the October, 2002 minutes.

THE CHAIRMAN: Okay. The motion has been made. Is there a second?

MR. HOLBROOK: I=ll second it.

THE CHAIRMAN: Dennis seconds. Discussion.

MS. BURTON: I have discussion.

THE CHAIRMAN: Yes, Kim.

MS. BURTON: Just a comment that I like the way these minutes are prepared, that our actual votes

are -- if you haven=t seen the minutes, the votes are actually bolded around so they=re easy to read. Very nice.

THE CHAIRMAN: All right. Other comments, corrections? Okay. Hearing none, all in favor say aye. Opposed, same sign. The motion carries. We also have Executive Committee minutes. What is the last set that we had?

MR. RIDDLE: All the way. April 22, so from October 17 through April 22.

THE CHAIRMAN: Okay. Those minutes are actually approved by the committee at the following meeting, but those are in the book for review and for the full Board if there=s any discussion or comments on any of the Executive Committee minutes, this is the time.

MR. RIDDLE: But we don=t need to vote.

THE CHAIRMAN: No. No. Okay. Seeing none. One thing too I forgot during the introductions, I would like to recognize the members of the NOP here, and I forgot to do that when we went down the table, but Rick Matthews, the program director. He=s at the back. And Barbara Robinson from AMS, they=re sitting at the back so that they can circulate. They will come forward at

the appropriate time to the meeting. I see Keith Jones in the back there, Arthur, Tony, Bob, Bill, and then Katherine Benham [ph] who comes up here and takes care of us at times, so I appreciate them being here and part of the discussion. Okay. Let=s then move to the agenda item concerning our Board policy manual additions. And again I will call on the Chair of our policy committee, Jim Riddle.

MR. RIDDLE: Yeah, well, I=ll open the discussion by moving the adoption of the Board policy manual as amended.

THE CHAIRMAN: Okay. Motion is on the table. Is there a second?

MS. CAUGHLAN: Second.

THE CHAIRMAN: Okay. Seconded by Goldie. Discussion.

MR. RIDDLE: Yeah, as Dave mentioned earlier, we did during our planning session in February work quite a bit, spent a lot of time on kind of a visioning process in establishing commonalities, and so the outcome of that was a draft vision statement and mission statement, so those are the substantive additions to the Board policy manual, and I=ll read through those here in a moment. Also, there just was a little bit of

housekeeping in this draft. We do have a policy on the format for committee recommendations, and that didn=t have its own heading in the table of contents and now that is in the table of contents, so when you have the electronic version open you go to that, click on it, and it automatically takes you to that, so as committees are drafting recommendations they can easily pull down that format and then fill in the content. And then some of the things I would say in the work plan for the Board policy manual task force will be addressing coming up that aren=t in this version yet is a time line for the submission of draft recommendations and TAP reports, essentially when those items need to be submitted to the NOP for posting and public comment to have more structure or discipline to that process, also addressing the committee names and descriptions as Dave talked about and updating the voting forms for materials that are in the Board policy manual to reflect some of the changes that we=ve made. So there will probably be other items identified over the next six months. So it=s in tab three, the Board policy manual, and the vision and mission statement is there on page 2. I=ll just read through those specifically for people in the audience that may not have gone on line and read this.

The NOSP vision statement. NOSP=s vision is an agricultural community rooted in organic principles and values that instills trust among consumers, producers, processors, retailers, and other stakeholders. Consistent and sustainable organic standards guard and advance the integrity of organic products and practices. So are there any comments, questions from the Board on the vision statement? Actually seeing no one except Dave and Kim, there=s a lot of bodies down the line, anyway I=ll move on and read through the mission statement. To achieve its vision NOSB provides effective and constructive advice, clarification, and guidance concerning the National Organic Program to the Secretary of Agriculture seeking to represent a consensus of the organic community. In carrying out the mission, key activities of the Board are assisting in the development and maintenance of organic standards and regulations, conducting public meetings and listening to public comments, maintaining a national list of allowed materials, communicating with, supporting, and coordinating with the NOP staff, communicating with the organic community, and providing information and education on the national organic program. Any comments on that section?

MS. BURTON: I have a comment. We should probably change maintaining a national list of allowed and prohibited materials.

THE CHAIRMAN: Okay.

MR. RIDDLE: All right.

THE CHAIRMAN: I think we can take that as a technical correction at this point if there=s no objection. Okay. Any other discussion? Okay. The motion is on the table then to approve the manual amendments, the Board policy amendments. Any further discussion? Hearing none, all those in favor say aye. Opposed, same sign. And the motion carries. Okay. We=ve caught up with some time here, but now our presenter has disappeared. Oh, there he is. Okay. I=m really pleased, this morning we have with us Jim Riva, who is the Chief of the Agricultural Marketing Service, Audit Review and Compliance Branch, to provide us with an overview of their interface with the National Organic Program. What we have sought to do as a board is that periodically to bring forward some folks that can provide us with some education and information, and because of the work that=s ongoing with the accreditation and compliance, we wanted to have Jim come and visit with us so, Jim, I=d like to have you come

forward. And I had a chance to preview some of the things that Jim has put together a couple weeks ago, and so I think it=s going to be an interesting presentation. Two things I would say about the opening side though, Jim, is that, number one, I very much appreciate that the world revolves around the National Organic Program. I think many of us can relate to that. And we also appreciate maybe you spread out some of the significance of your little slogan in light of the last few months. Learn the deal on the new seal. With that, I=ll turn it over to you.

MR. RIVA: Learn the deal on the new seal. There is a USDA organic standard out there that everyone must follow. We have an accreditation process that we use for all certifiers that apply to us, and that process never changes no matter who they are. What I=d like to do today is kind of go over who we are. We=re the Audit Review and Compliance Branch. I=ll give you highlights of some of the other programs that we work on plus later on I=ll show you the actual process we go through for the accreditation. The Audit Review and Compliance Branch, our auditors are quality systems operations. We have a review process that we use in the livestock and feed program. It=s kind of an internal

review that we use for all our branches and programs. Compliance, the compliance part of our branch is specific to regulations that is mandatory livestock reporting. That=s the only part that we have to use our compliance officers for. In our branch we have 20 auditors. They=re all trained as lead auditors, quality systems operation and the mandatory livestock reporting side. We have one reviewer that goes throughout the other branches and reviews their processes. We expect that he=ll be reviewing some of ours too. In the past we used the ISO standards, ISO 900 management systems, guide 61 for accreditation of certification bodies, ISO guide 65 for certification bodies, and we operate under the ISO 19011, which is our guidelines of how we perform audits, how we have our -- has anybody in the room been in one of our audits yet? I=m not sure. I guess I shouldn=t have asked that question until we get in the back of the room back there. But we have a process we go through, and everywhere we go we do it the same way. We have an opening meeting. We interview. We look at things. We document what we do. One of the reasons we operate under an ISO standard is whatever we do can be internationally recognized. We have a quality system in

place in our branch. We have our own quality manual. We have our training set up. We control all our documents. We have a really detailed way to identify reports back to clients. We have dates involved, any interaction between us and the clients. Our auditors are located throughout the United States. We have two officers, one in Des Moines and one in St. Joe where we actually have six auditors in each location, and we have the rest of our auditors working out of their residence. We try to spread them out a little bit so that we can offer an effective and efficient type of service to all our applicants. As you can see, our auditors are well traveled, and no one was happier than the USDA when we told them that they could keep their miles and use it for personal travel. These guys get trips. Of course, we don=t give them much time off to take the trips, and so they have to squeeze them in on the weekends sometimes. Just to give you a background on some of the other programs. We do some programs for the European Union. We have 15 non-hormone treated cattle programs out there. One of the things we did is put together a program when the EU decided that all the meat from the United States has been fed or used hormones, we put together a program based on ISO standards that we could

verify that the animal was born and raised and slaughtered in an approved facility. That way they can export that meat to the EU. It was a difficult process to say the least. We had one small packer that killed about 100 head and at that facility they brought in five or six EU auditors to try to tear our program apart. They succeeded the first time. We rewrote the program and came back with a better program the second time and they had no alternatives but to accept the process. So there is a market there. If they want to purchase it, we can ship product to the EU. Also, in the pork industry there=s a feed additive called Paylean [ph] that they feed pork. We worked in the front end of that program before they released that feed additive to make sure that they can still export pork to the European Union. It seems like if you build a program that=s based on ISO standards, your auditors are trained, you operate under a 19011 standard then the EU will recognize what we do. Some of these programs, they are yearly reviews, and we actually do a start up review when we get started. We also do audits for livestock and feed programs commodity procurement. They=re the ones that buy product from -- I see someone over there giving a thumbs up on bison. Someone in the commodity

procurement program said why did you use that picture of that ugly bison with all the hair coming off. Well, that=s what they look like this time of year. But anyway we do audits for the commodity procurement program. They buy the school lunch ground beef is one of the main things they purchase. I=ll give you a list of some of the other things we work on, but we also go to the plants. School lunch will not buy any product that is made or processed from animals that have been considered donors, so we go to the slaughter facilities to make sure that they have a plan in effect to separate those animals from our product. We also have pathogen intervention steps that they have to have in place. We have a stunning requirement that they can=t use a certain type of a stunning gun that=s basically outlawed in the United States. And then there=s some other material requirements like the removal of spinal cord, any rift material that we want to separate from school lunch. Using the products that we actually do, we approve or certify under our auto base program, we have ground bison. We have had some companies bring in stew or chili made of bison, which was really good stuff. There may be an opportunity for them to purchase that later on. One of the most interesting things we did

last year is we purchased product, cat fish. I don=t know if there=s any cat fish raisers in the room, but how long do you think it takes to raise cat fish from this size to say a two-pound cat fish that they actually harvest? Does anybody have any guesses? Three months, ten months? Anybody else? It takes 18 months. Now I didn=t realize that. I thought it was days myself. I thought fish grew up in like four or five days. But part of that program is that we have go out to the ponds and actually make sure that the fish are raised in the United States, harvested in the United States, and slaughtered and processed in the United States. So we got a real good education on this one. Some of the things that are funny about the cat fish is when they dump them out on the table they actually pull the turtles out, the frogs, and everything else that may come with them so it=s kind of like the defects in cat fish are a little different than the defects we=re used to in the ground beef program. Frogs is a defect. Another program we=re working with today is the Humane Farm Animal Care. We=re putting together a program under an ISO guide 65 requirement, which will be a full blown audit on their program for that guide. The name of their program is going to be certified to raised and

handled. And you may recognize the name, the person that=s running this program is Dale Douglas. I don=t know if that rings a bell to anyone. Our Quality System Verification program includes all these different processes. We have process verified. We have the organic certification and accreditation which includes the ISO guide 65 accreditation and the National Organic Program. We have the hormone growth free program for the EU and our services to AMS commodity procurement. The USDA process verified program is a science based program. There=s some ideas involved in it. It=s based on international standards. What we found with this program is a big pork producer, Pinon [ph] Standard Farms, non-organic, of course, but they do have a process in place to identify their animals from the time they=re born, what they feed them, how they handle them, how they move them through the system, and it has opened up markets for them in Japan. So we=re finding that any auto base program under international standards seems to be internationally recognized, so it=s real helpful for the industry. Here are some of the countries that we=re involved in right now. We have Pederson Natural Farms. They do a pork program. Pro pork is basically a Berkshire breed identification. Here are some companies

that have come to us in the last six months that are working through the system. We have Smithfield Beef, which is a big program, Beal USA, Murphy Brown LLC. They=re putting together a -- Murphy Brown LLC is putting together what they call an animal welfare management system throughout all their production units, which is about 3000, so it=s a pretty interesting program. Some of the things that we verified during our process verified of course are breed, corn fed, Vitamin E source verified. If any of you have seen the marketing claims that have been posted in the Federal Register those would be the basis for these claims here. It has become through the comment period. We=ll issue them as being the claims that will be verified through our program. Grass fed is a real big one. We have a lot of comments on grass fed. Now accreditation is certified as worldwide. When we started this back in 2000, December, I=m not sure, we thought that there would be 50, 60 people apply for this service. We were way off on that. What it turned out is that we actually worldwide are setting how they process their products, how they certify their products for the National Organic Program. The process starts by an organic certifier submitted program for review. The approved certified

operates using the USDA standards and then the producers that are certified may label their product organic according to the rules and regulations. As you can see, it pretty much turns the private certifier, let=s say I=ll put verified organic up there, and QAI turns them into an agent for the USDA to apply the standard. So they have to operate similar to what we would call like in our livestock and feed program we have Meat Grading and Certification Branch. They apply the USDA standard for choice so when we=re going through the accreditation process we always think these companies to being similar to a USDA agent applying our standard. As you can see, worldwide we=ve had applications and some accreditations throughout the world. South America is very big, Europe, Turkey, some in the Middle East. We=re planning on going over there to do our reviews in a little later period of time. We=re actually thinking about maybe video conferencing on site reviews. Accreditation organic certified, these figures may not be exactly right so total worldwide we have accredited 79. 36 are based in the United States. Some of them based in the United States are international companies that operate throughout the United States -- throughout the world. There=s 13 states that we=re working with.

International based private industry certifies 29. We=ve been working with three countries or three government entities to do country to country agreements. Now the process, we=ll take you through the process real quick. If anybody has been -- Jim Riddle has been there, Dave has been there. Some of these companies send volumes and volumes of information, boxes of documents. You wouldn=t believe how much stuff we have. Just this week we=re starting to get our yearly updates from all the certifiers, and one of the offices -- our small office the whole wall is covered with boxes from every carrier that can ship anything, Fed Ex, DHL, all the ones. But just to get back to this real quick, an application arrives in our branch. We enter it in the database, and I=ll show you one of the screens from our database. Our accreditation manager reviews and submits his application using a checklist. I=ll also show you a copy of our checklist. The letter is sent back requesting more information and pretty much five times out of ten just on the initial application we have to request more information just to get it to the point where we can move it on to initial review. The accreditation manager reviews the information as it comes in, and then we -- or sometimes we get a

completely new manual. At one time we had one company that sent us three complete revisions of their manual. And the one before it didn=t look like anything had run after it so it=s interesting working with quality systems. All this information that we got is entered in our ARC database, which I=ll show you a little copy of it here. As you can see here we tried to capture the date it was entered, which is the date that we get the information so we know when the time starts on them. We have a client identifier right here. This identifier right here is tied to an individual client so that we can trace everything back to that number. With the request for information we put the date in there, the date that we receive the information. Down here we have a little block where if they want to apply for an ISO guide 65 also we=ll check that in and they=ll get a different identifier for ISO guide 65. This is their identifier for the auditor NOP accreditation. This one is probably a finished one. The date it was sent to the committee for determination, and we have conditions. If we have some conditions that are involved we=ll have a report written and we can pull up the report from this number right here. This is for the site visit, when we perform a site visit. We continue the information here,

who the auditor was, who the other auditor -- we have a lead auditor. A team of two auditors go. We actually have another identifier specifically for the site visit. Just to go real quick to our checklist. It=s based on the NOP regulation, 205, 503, 504, 505, and what it does is when we receive information we scan it first as it comes in to make sure that they have enough information just to meet the minimum requirements to move it on to an auditor. As you can see, it=s one, two -- about three pages long. So before they can even move it on to anyone, they have to go through this process of application. We have detailed instructions, all our auditors, anybody that=s involved in our program they have to follow. We have flow charts of what to do when it comes in, how you identify it. For example, number four, if the client is a current client you use the existing client folder. We have folders in our database for every client that we have anything to do with so we can go back -- if someone would call and say give me all the information you have on Excel in Iowa, I could call up their folder and everything that was ever done with that company is listed in that folder. This is general procedures for the receipt. This is just to receive the information, what happens when it comes in to our

office, how we put it in our database, and some of the other information that=s generated. These are work instructions that our auditors use for their report for the quality control of their report, who writes it, where it goes. We review every report when it comes in to make sure the content is there. We have a pretty good outline of everything that has to be in our report so we know we=re looking for everything we need. The accreditation process continues. We notify the applicant that the application was moved on to an auditor for the initial desk audit so right now we=ve reviewed it in our office. Now we=re sending it to an auditor for what we call an initial desk audit. And the reason we call it initial is he=s going to use a checklist which is about 57 pages long and he has to answer yes or no to every one of those arguments on those 57 pages. And the first time through we=re going to find some missing information. So we assign a qualified auditor. We have seven or eight auditors that we use exclusively for the National Organic Program that have a good background. They=ve been doing organic products for about four or five years. All documentation checklists and reports are sent to the auditor. Everything that comes in to our accreditation

manager moves on to our auditor when we do the initial review, which includes E-mail, which includes correspondence, everything that has to do with that client. Then you=ve probably seen this on the Web site. Once we move it on to the auditor we pull it out of this column and put it in this column. That way the client knows that they=re under review by an auditor. And of course the final one is accredited. This is just a cut off. This is the whole report. So the ARC auditor reviews all the documentation. He uses the NOP compliance checklist that I talked about earlier. He has a yes-no answer for each checklist, and he references where the program -- when he says yes, we want to know where he found the yes. That way if we have questions later on we can use his report and go back and say, well, you said you found it in the quality manual, page 42, section 53, so that we can reference back. What we want to do is document everything we do so if another auditor takes the same information, he=ll come up with the same determination as this auditor, so we have to have a guideline, a checklist, and everything is done exactly the same way. Our auditor in the field interacts with the certifier. What gets to be interesting when that certifier is in Italy in a

different time zone on an almost completely different day we do a lot of faxing and a lot of E-mail, some phone calls. Not a lot of phone calls though. I didn=t even know we had to have international clearance on our phones before we could call so I thought I had the wrong number but we talked to our phone guy and he fixed it for us. Here=s the cover page of that checklist and it gives a few definitions for our auditor. It=s kind of a clarification statement for him, kind of a guidance statement from within our branch to our auditor. The table of contents has hyperlinks to each section, and I=ll put that up real quick here. As you can see, the table of contents outlines all the parts and all the clauses of the 205, so what we=re looking for is information on everything that has to do with that regulation. This is just the front page. There=s 58 pages after this that he has to go through. Auditor issues an initial desk audit report, which is usually a shopping list of things we couldn=t find. Some of those reports may be two, three pages long, and they identify the section and the place where we can=t find the information we=re looking for. It may be a training document. It may be part of their quality system, and it may be there, we just can=t find it. So we send it

back to the applicant and then work with him to straighten out the differences. The certifier submits clarification to the auditor. He addresses the initial desk audit and reports back to either the office or directly to the auditor depending on what=s easier. Once the auditor starts on this program or on this client=s file he usually takes it all the way through. We would like to keep the auditor all the way to the site visit. At least one of the auditors that has reviewed the documentation will be there on the site visit. It gives them a better insight in the company and gives them a better idea of what he=s looking for when he gets there. Now once we get the initial desk audit, it may take two or three times going back and forth between the certifier, we=ll come to a point where we believe, okay, they have enough information that we can make a determination, and that=s called our final desk audit. We continue to interact with the certifier to address all the elements. We issue a final desk audit report along with other documents, which may be information that they gave us, corrective action, and then we send a recommendation. The auditor sends a recommendation back to the Washington, D.C. office. Audit reports, certified documents are submitted to the

accreditation committee for review. The accreditation committee in Washington, D.C. is made up of livestock and feed program, different branches, auditors in the field. We have an instruction that identifies any auditors that worked on that file cannot sit on that committee, so if we have questions for that auditor we may get him on the phone and say, okay, what did you mean here, did you look for this, but he can=t vote or he can=t really review the file for the committee. So he would be a resource but he never actually is part of the committee. The committee issues a determination to the NOP, which is we may meet on the phone, we may meet in person, we may have an auditor that=s in California. We=ll put them on a speakerphone and have our committee meetings that way, so there are different ways to do it. The main thing is that the auditor that performs the audit is involved. And if he issues the accreditation letter, and then they list accreditation certifier on the Web site. So we think we=re done yet. We=re not done yet. So the certifier usually during the final desk audit there will be some things that we still need where we call them corrective actions, preventative actions, and what they=ll do is send us more information. We may have to issue a new document that

covers something that they=re deficient in and start operating in a different manner, so it can be anything from a training document to a resume to a quality manual to some kind of procedure that we need. The ARC auditor reviews all the information submitted, the same auditor that started this process, and if possible then he=ll issue a corrective action report. Some things we have to actually wait till we go on site so if it=s something we want to see physically we=ll say, okay, you=ve submitted this corrective action. We=ll take it from you but we=re not going to issue a report until we actually go on site to verify that you=re actually doing that. Now here=s the definition of accreditation that=s taken out of 7 C.F.R. Part 205. The determination of the Secretary, and that=s not my secretary, she doesn=t make any determinations, that authorizes a private board or state entities conduct certification activities as a certifying agent under this part. So that=s our main document. That=s what we build our checklist on. That=s what everybody has to comply with. Now we have what we call our on site verification audits. We=ve been doing these since like 1996 under ISO guide 65. We usually send two auditors out. Under the guide 65 program, we would go to their place of business and

review all their documentation, all the procedures, and then go do two on site audits, so we would actually visually watch an inspector work. Are there any inspectors in here? The best experience we had out in the organic industry is working with the inspectors. We like the certifiers. Don=t get me wrong. But when you=re out there kicking the dirt around and asking them questions, and they have the answers, they=re a very dedicated work force, they believe in this organics, and they=re really the back bone of this while industry, I believe myself. Now that=s personal. Now that=s a personal point of view, not anything from AMS. And they are very interesting individuals. Let=s put it that way. Getting back to business now. When we do our on sites, we usually have two auditors. Okay. We go to their office and we=ll review the documentation they have in the office. Submitting manuals to us and procedures and training documents is one thing, but once you get into their office you want to see that they=re actually operating exactly the same way that they tell you they are. In some cases we find some discrepancies, you know, where they say they do something and they go, oh, yeah, I forgot, we really don=t do that anymore or we don=t follow that because we got a better way now.

Well, that=s not what we=re looking for. We want what they=re doing to match the documentation they submitted to us. So we go in the office and we watch all their activities. We want to see how their committees work, how they review files. We=ve gone through all their client files and pulled samples out and reviewed the files, looked at the inspector=s reports. It=s a very detailed audit. We interview the personnel. That always brings us some good information. When we=re talking to people, when we say it says here, we=ll ask someone and we=ll say it says here that you=re the certification committee manager. And they say, well, no one has told me that. That=s kind of a far out example but normally the interviews are real good. These people really want to get this done right. They want us to give us the best information they can. And this isn=t a got you. We=re not trying to find problems. We=re trying to find that they=re complying with the situation. So we=re doing everything we can, ask them for more information, look for more records, whatever they can give us to see that they=re complying with the rule. Office inspection and inspections, we go out and do -- actually watch an inspection being performed by one of their inspectors. It gets real interesting. The

inspectors are a little nervous when we=re there because not only we=re there but the person that=s certifying, the certifying company is there watching them, and the producer is there watching them so there=s a lot pressure, and we try to alleviate that a little bit by staying in the background and asking certain questions, watching how they do it, and then reviewing their documentation later. So if you=re an inspector and we come and review you, don=t be too upset because we expect you to be doing it right. We=re not looking for any mistakes. We=re going to ask you enough questions to make sure that you understand what to do. It should be a good situation and it should be a fun audit although we have a difference of opinion on that. Well, we believe it=s fun. We enjoy it. We really like getting out. I=ll show you some pictures later on about auditors actually in the field so you can believe me. We actually go out there. I=ll show you some pictures. The auditors issue site visit reports, which is another report, and that has a special number all by itself. We identify that audit report different than the initial audit but it=s tied to the same client. We want that audit report to reflect the day that he=s actually there doing the on site audits. Activities reflect written

procedures. That=s the main thing we=re looking for. We want to see what they say and right now they ask you to do it. Details of the certifier=s activities, and sometimes just reading them isn=t enough. We have to actually go out and see what they=re doing and basically see how they=re operating. Like I said, we have clients that operate a little different than what their documentation says. We also like to -- non-compliance, we=ll find a few of those because what we really like to see is certifier=s program attributes. We like to identify some of the good things they do, some of the good activities they have in the program just so that we recognize the good part of what they=re doing as well as how they=re complying with the rule. And then of course on site has a recommendation along with it. Do they continue being accredited, are they approved, or is there some changes going to be made. If they=re in compliance we=ll find continuous improvement points, things that they have to fix that really doesn=t affect the process. You know, a report not there, training document, things like that that we=re looking for. Corrective action requests will be given to them with defined deadlines. We have to have that corrective action back by a certain date. Usually it=s 30 days.

If they need an extension we=ll allow an extension to get it back as long as they give us that information. We also have a hold point which we believe if we find a hold point it materially affects the process of what they=re doing so that=s something we have to control right away. It looks like you=re out of compliance here. We=re going to issue a hold point. It=s going to go down in the record for a summary report back and a recommendation will be to allocate that something has to be done with this company right now. It will be noted by the court and action will be taken immediately and immediate corrective action will be asked for, and if they can=t comply then the next alternative of course is to be decertified. Just to go over real quick of where this activity has happened. Initial audit review is in our headquarters. The initial desk audit is the auditor. The final desk auditor, desk audit done by our auditor. Committee meeting is held in Washington, D.C., and communicate with telephone, whatever way to pull three people together. Accreditation is handled by AMS, NOP. We=re going to have -- I=ll show you where we fit in the system here in a minute. Site visit, we have an audit team that goes out and make sure that they=re qualified for what they=re doing. We just over the last

year in AMS, we have trained 159 lead auditors AMS wide, and the reason behind that is we want to be prepared for any audit that we have to go into whether it=s a poultry plant, a dairy, F&V, fruit and vegetable. We have representatives throughout the livestock and meat industry through AMS that we can call on as subject matter experts now that have a background in ISO lead auditor training. So anything that comes to us now we can pretty much handle it. It hasn=t been that way, you know, forever but we have had a good core of auditors. The site visit, of course, I said there=s an audit team and we=ll make up that team according to what we=re reviewing. And then the certification program updates, we=re starting to get the yearly updates in, which is going to be another process all in itself. We didn=t make any changes. We may have to actually review the changes to see if it affects their activities. Hopefully it=s just small minor changes, maybe a training record here and there. But some of them are coming in the 8 x 10 box that you use for the old paper full of documents. They=ve changed everything, so it could be a process in itself. Just to you know, we actually go out. We conduct an opening meeting. Usually at the opening meeting we=ll allow everyone

that=s involved in the audit will be there, everyone from the company. They want to see what we=re doing there. The organics, of course there may be four or five or six. And at one of our process verifying audits we have an opening meeting, we have 32 people there. They actually shut down some of their facilities so they can come and listen to what we want to look for and kind of be ready for what the audit is going to be. At the opening meeting we discuss openly with them what we=re going to look for. We give them the checklist of what we=re going to use, the checklist. We tell them this is the kind of information we need. Start getting your people so that we can see. That=s me out in the field, I think it=s Minnesota, so we do travel. We do get a little bit. We talk to the certifiers. I think he=s the owner of the property there, yeah, from Minnesota, I believe. Here=s an orange grove, I believe. I=m in Minnesota and my auditors are too. Look at the mountains in the background. Isn=t that beautiful. That=s Marty Friesenhan. He=s one of our lead auditors. You may have met him. It looks like he got to go to the orange grove. We go to the processing facilities and interview people there. We look at equipment, how it=s handled, the requirements. They=re real open with

us. They tell us all the information we need. They tell us how they clean things, what they use. And then we conduct a closing meeting. Now as you see this is kind of a bad -- at the closing meeting one person shows up. He=s going to hear the bad news. No one else needs to show up at the closing meeting. Sometimes we=ll say, well, if you don=t want to have a closing meeting we=ll go out and talk to the other people, so they=ll bring some people in just to sit in the -- but we do find that in the opening meeting we have a lot of people, and at a closing meeting maybe not so many sometimes because they=re afraid we=re going to be pointing at them, I believe. Now that guy didn=t do this, he didn=t say that, so they=d rather hear it from their boss, I guess. Just a few facts I=ll throw out. We are in some country to country agreements, government to government, accreditation certifying activities. We=re using international standards as best we can. This whole process is solely customer recognition and standardized application of those, part 205. To date, here are some of the hours, I just threw up some hours that it takes us to actually review these. For a few months there from 11/9 to 4/21/02, which is an ending date itself, we spent 2600 hours reviewing the annuals from the I think

it=s six months, five months there, 2100. And from 9/03/02 to April of this year we=ve already spent 1876 hours to work year. For one auditor it=s 2080 hours. So you can kind of do the math there. We=ve used approximately three full-time auditors around the clock split up between different people of course. On site audits remaining, we have 19 left to do of the initial 34. I=m actually planning a trip for another reason to Uruguay, which is going to get me into South America which will get me in to actually stop by and say hi to some of our certifiers, which may be interesting to know. They don=t know I=m coming. Now just to show you where we stand in the AMS program. We have AMS livestock and feed program. As you can see here, our clients, our supervisors on the livestock and feed program no one on the other side actually supervises our activities. We do work for the NOP. We are like a subcontractor for them, but we answer to our bosses, and then I think Barbara Robinson talks to Barry Carpenter so that=s the interaction there. But the auditors in our branch, I=m their supervisor and they get all their orders from me, and sometimes they listen to those orders too. Just to go down a quick list of responsibilities because it is defined. We do two

different things. Our branch does one thing and the National Organic Program does something else. We review all the documents, perform the audits. We put the committee together. We do have National Organic Program members come to that committee too also, but we are the ones that start the committee. We are sometimes acting basically for the National Organic Program. The National Organic Program accredits the certifiers through the administrator. They do the compliance. They=re working with AMS compliance not to be confused with policy review and compliance. AMS compliance is completely separate and different program within AMS that they do their own thing. They do the compliance. We have no control over that. Whatever they do, they do. The NOP interprets part 205, and if we have questions we try to not answer them because we=d rather have it come from the experts in the National Organic Program. If it=s a question on how audits are done or what we may be looking for, we=ll answer those gladly, but if it has to do with part 207, anything on standards, we like to turn it over to the National Organic Program. And of course there will be administrative activities on organic rule and accreditation process. Here=s some interesting graphics

I just pulled up. That seal is really a nice looking seal, I believe. I think that=s really cool. It looks like -- we=re seeing in the grocery stores. No cartons, of course. And that=s the definition of how they can label, USDA terminology. And that concludes my presentation. As you can see we=ve been busy. When we first started with this, we thought there would be 45 applicants and now we=re way over 120, so we have to scramble and we were very busy to start off. We kept it to the line and did it according to our regulations. And I appreciate you asking me to come in and give you a little highlight of what we do. Thank you very much.

THE CHAIRMAN: Okay. Thank you, Jim. We know how organic sardines feel out there. Questions or comments for Jim?

MR. RIDDLE: I just want to thank you for the presentation and the fine work that the ARC is doing to implement the program. I have two questions, Jim. One is you do that desk audit and someone gets approved and placed on the list and then follow it up with a site visit, and I=m just wondering if there have been any instances yet where you=ve issued a whole point at that process and what happens there.

MR. RIVA: As all audits we perform, we find

improvement points, which we find a lot of improvement points that will turn in to what we call whole points, and we do have -- we find whole points. And we have found some and we=ve turned them over to the National Organic Program to request immediate corrective action from the applicants, and we=re getting that.

MR. RIDDLE: Okay. But so far they=ve stayed on the list.

MR. RIVA: Right.

MR. RIDDLE: They haven=t been revoked or...

MR. RIVA: That is a process that=s carried out by National Organic Program.

MR. RIDDLE: Okay. And then the other question, you mentioned about the country to country approval, and these would be certifiers who aren=t directly accredited by you, correct?

MR. RIVA: Right. Like Quebec is one. What we do is we use guide 61, and we use that to review documentation. New Zealand, I believe, is another one, and Eucrops [ph], I think from the United Kingdom.

MR. RIDDLE: And I know there are some concerns about those certifiers and just the approval process that they go through, and is it equivalent. Could you just summarize what your role is in it?

MR. RIVA: I=ll give you an example in New Zealand. They are ISA guide 61 compliant. We did a complete review of their program and they meet every clause, every instance of what it takes, and in guide 61 they have to have surveillance, they have to have accreditation processes so we have confidence that if we use guide 61 the outcome is going to be exactly the same way that we do things.

MR. RIDDLE: So you=ve reviewed the accrediter in New Zealand?

MR. RIVA: Exactly. They operate like USDA.

MR. RIDDLE: But then also to make sure that they enforce the NOP regulations. It=s not just guide 61 but...

MR. RIVA: No, no. The standard that they use has to be 205.

MR. RIDDLE: Okay. Thanks.

THE CHAIRMAN: Other questions? Jim, again we appreciate. I know you got to catch a plane right after lunch here, but we appreciate you coming in this morning. I think it=s been very helpful.

MR. RIVA: Thanks for inviting me.

THE CHAIRMAN: Okay. We will move into the public comment portion of the agenda. And we=ll take

them on the list in which people registered for comments. Just as far as our policy on public comments let me just review those. All persons wishing to comment at the NOSB meetings during public comment periods must sign up in advance. Persons will be called to speak on in the order that they summed up. Unless otherwise indicated by the Chair each person will be given five minutes to speak. Everyone must give their names and affiliations for the record. The person may submit a written proxy to the NOP and NOSB requesting that another person speak on his or her behalf but no person will be allowed to speak during the public comment period for more than ten minutes even with a proxy. So with that we will start in on the order that we have here. And the first person that we have is Spangler Klopp.

MR. RIDDLE: Can you give the next person on there?

THE CHAIRMAN: Oh, okay. And also on deck will be Ronnie Cummins, and our official timekeeper will be Jim Riddle. He will give you notice when there is one minute remaining. Eye contact is not necessary to start the clock for your one minute so don=t avoid looking at him because he will be -- your one minute is

one minute. Mr. Klopp has requested -- he sent his in in writing on April 30, and ask that it be read into the record.

MR. SIEMON: Is it in the book?

THE CHAIRMAN: Yes, it=s in the book under tab two. It was addressed to Barbara Robinson regarding Docket No. 0203205.603, synthetic substances allowed for use in organic livestock production, specifically DL methionine. I am writing not as a nutritionist but as a board-certified poultry veterinarian. Methionine is an essential nutrient for chickens, but its importance goes beyond this fact. Having over 30 years experience with chickens, I have seen meat type birds raised before DL methionine was introduced and that was not a pleasant experience. Poor feathering, stunted growth, feather picking, and eventual cannibalism were all too common. Typically at that time chickens were raised on more than one square foot per bird. Egg laying birds would experience decreased egg production, poor feathering, and associated cannibalism. We refer to this situation in this day and age as animal welfare problems. While increasing the general level of protein does offer some sparing effects on nutritional aspect, please rest assured that this solution comes with other issues.

Increased protein intake causes accelerated metabolism and body temperature causing heightened bird activity, which leads to hyper excitability, flightiness, and many of the issues mentioned above. These behavior patterns are also animal welfare issues, not to mention decline in bird performance. And I=d also add that protein nutrition is already a complex entity in organic chickens as we are forbidden to use mammalian animal protein. Additionally, food animal production is already under added pressure to reduce nitrogen and phosphorus intake and excretion for environmental reasons. Other alternatives are just not adequate, but I refer to you letters from qualified nutritionists on this matter as they are experts on nutrient formulation. For these reasons, as I=ve previously commented, I am asking that the use of DL methionine in feed for certified organic chickens be continued beyond the three-year limit that is to expire in 2005. There is no substitute for this essential nutrient. I know you have comments on records from Novus, Inc. and from quail poultry nutritionist on the technical merits of this position, and I hope the NOSB realizes the importance and significance of their position. I will be unable to attend the NOSB meeting in Austin, but trust that this

letter will be read and will be part of the submission docket on this matter. If you have further questions, please contact me. Sincerely, Spangler Klopp, DMV. Okay. Next, Ronnie Cummins, and then after him is George Tipper. Okay.

MR. CUMMINS: Well, thanks a lot for having me here today. I=m Ronnie Cummins. I=m the National Director of Organic Consumers Association. We=re a network of half a million organic consumers across the U.S. We strive to represent the views and aspirations of the 13 million households that are buying organic now, and the 63 million more that occasionally buy organic products. Although the NOSB isn=t dealing with this issue immediately, we think it=s important that you get proactive right now in the whole community. There=s a $4 billion industry out there as you know, the natural body care products industry. At this moment the majority of products being sold in the natural body care products industry are fraudulently labeled as organic. This is a threat not only to consumers who are inadvertently purchasing products that are, you know, very similar to conventional body care products including toxic ingredients, but it=s a threat to the whole organic industry in the organic community. We

cannot allow this to go forward. The idea that you can distill essential oils and use the byproduct, the water, and count that as an ingredient in body care products is obviously ridiculous. You can go -- I went in to the natural food store here, Wheatsfield Co-op, yesterday, looked in the body care section. Everything on those shelves was fraudulently labeled as organic. It said on the front panel that it was organic even when they didn=t claim it was 70 percent organic. The ones that claim they were 70 percent organic when you turn it around and looked on the back the primary ingredients are floral water or hydrosol. This is like Campbell=s Soup using a distillation product for a vegetable taking the water, the hydrosol left over, sticking it into Campbell=s Soup, and calling themselves organic, even if the vegetables weren=t organic, even if the noodles weren=t organic. Obviously, we would not permit this in a food product but it=s going on right now. Furthermore, the Organic Trade Association Body Care Task Force until recently was meeting setting standards with a committee entirely composed of representatives of the industry itself with no consumer input. So basically our position is that it=s not okay for the Organic Trade Association or the NOSB or any other body

in the organic community to say, well, we don=t have organic standards yet for organic body care products, so we=ll go ahead and let America=s leading natural body care companies defraud the public and degrade the word organic for two or three more years until we have final standards. We have launched a campaign which we hope you will join in with that not only we want the OTA Body Care Task Force to issue some strict regulations that mirror organic food regulations for the NOSB to approve, and then for the USDA National Organic Program to approve, we want this practice, this massive fraud in the marketplace to stop now. We call on every one of those companies defrauding the public to change their labels, to stop saying stuff on the front panel, which is obviously not true. And we=re taking this first to the court of public opinion. We filed a complaint in California against Avalon, a leading perpetrator of this fraud, but by no means the only one. Basically everything out there just about that says organic on the front panel is defrauding consumers now. And we=re going to take this beyond the court of public opinion if we have to. This must stop, and immediately. Thank you for your time.

MR. RIDDLE: I have a question.

THE CHAIRMAN: Yes. Thank you. Mr. Cummins, if you=d stay.

MR. RIDDLE: Ronnie, I=m also concerned about the use of the word organic on the front panel, not just of cosmetics, but I=ve seen it on air fresheners, kitty litter. I=ve seen fertilizers certified organic gypsum advertised. And up in my room, I=ll bring it down after lunch, I have a container of organic herbicide. Now I thought this took the cake. No certified organic ingredients. No notice of who it=s certified by whatsoever, and I=m just wondering two things. If you or your group has looked at the policy on the use of water as an ingredient that=s on the NOP Web site. That=s one thing. And then also if you=ve looked at the compliance procedures and how to submit a complaint that=s on the Web, and if you=ve submitted any complaints to the NOP on this issue.

MR. CUMMINS: We started out with submitting a complaint to the California since the State of California has a law on organic body care products. That=s the reason why our complaint has gone through there. It=s come to our attention -- I mean we were totally shocked last October 15 to read in the newsletter about was going on here. Since then we=re

now starting to hear other things like the so-called organic compost and so on. We believe that this is the opening skirmish in the battle that=s going to have to be fought on an ongoing basis. We can=t allow the name of organic to be degraded. And we have to use every tool at our disposal, including public education and litigation if necessary to stop this. And I=m confident we can stop this because consumers don=t want to pay top dollar and be defrauded. And honest companies don=t want to be hampered in entering the market place. I mean if there=s no incentive to really be organic in body care products why would any company do it when you can defraud the public and it=s cheaper. That=s what everyone is going to do, and that=s the reason why go into any natural food store in America. Look in the body care section. Everything in there is defrauding the public and using the word organic. When you start seeing companies like L=Oreal, you know, and chains like Nordstroms using this, you know that if we don=t stop this now it=s just going to grow and grow.

MR. RIDDLE: Thanks. Okay.

THE CHAIRMAN: Thank you. And I apologize to the Board members. I=m having a hard time seeing if anybody has the -- I can see Jim and Mark but that=s

about it. Okay. Thank you, Mr. Cummins.

MR. CUMMINS: Thank you.

THE CHAIRMAN: As George comes forward, just two things. Also, in the questions and answers brevity is greatly appreciated on both ends, and also if people would turn their cell phones to vibrate or turn them off so that we don=t have the distraction of cell phones. After George will be -- I=m a little confused here on how this is worded but it=s Dave Dacue [ph] with Brian Baker as the proxy and...

MR. RIDDLE: It looks like Laura Morrison.

THE CHAIRMAN: Laura Morrison, so whoever is coming, you=re on deck. Okay. Go ahead. Sorry, George.

MR. KIPPER: Good morning. Thanks for the chance to speak. I=m George Kipper. I=m a program specialist with the National Center for Appropriate Technology based out of Fayetteville, Arkansas. And for the last year and a half we=ve been working on a project that=s co-funded by the National Organic Program and by National SARE to develop educational materials and guideline materials for farmers and other producers to help keep them in compliance, advise them of compliance issues of the National Organic Program. We=ve had on

our stakeholder team some fine members of your body there, Rose Koenig and Jim Riddle, and also some folks from the organic community that you know and love like Emily and Harriet have been on that team, and Kelly Shea, Leonna Hoods, and several others. We had a group of about 20, 25 people involved in that effort. About two weeks ago, I mailed each of you copies of the first deliverables from that effort, the sustainable practices work books, and since then we=ve also made mailings to all the domestic certifiers, about 70 are on the NOP list. We=ve also done mailings to about 45 organic farmer organizations, the folks that are doing educational work, and there are plans to do mailings also to the county level extension offices and to NRCS. We=re hoping particularly that the certifiers will be involved in getting its materials to farmers particularly to the new operators who will really benefit from the information. We=re also developing, I hope it got distributed to you this morning, some organic field crop documentation forms. I don=t know if we need to go round. There=s one for each of you. It should be somewhere out there. And what these forms -- they=re coming out of this project also. We created them with the idea that farmers have to record a lot of

different kinds of information to help demonstrate their compliance, and these are tools to help make that easier. And this is the first one to come out is on field crops. We also have a set of livestock forms and it sets specifically for orchard and vineyard crops. We=re hoping within the next six to eight weeks to have those available, and there=s also a producer checklist that we=re working on. They=re all products of this project. And all these materials, they=re free of charge to the producers. They=re available on our Web site, ATRA Web site, and also by calling our 800 number, and that number and the Web site is on the comments page that is distributed. And just as a last note, I=d like to publicly thank Barbara Robinson for taking a chance on us doing this effort and thanks of course to the stakeholder team, and to Jill Auburn at SARE for her support on this. And if you have any questions or comments.

THE CHAIRMAN: Any questions?

MR. RIDDLE: Okay. I=m going to quit doing this. George, as somebody who has been on the stakeholder team and seen this project develop, I just want to compliment you on and thank you for the incredible resource that ATRA has put on the table both

in the work books themselves and these new forms. I haven=t looked at them yet but I assume they=re of the same high quality. There=s some meetings that you=re going to be having here with the stakeholder team, and I=m just wondering as it relates to the Board, if members of the Board have any comments about these forms or the work books if there=s going to be another round of review and if people can still get comments to you.

MR. TIPPER: Well, we will take comments on these really at any time. And ultimately everything that ATRA puts out goes into a cycle. Now the work books specifically will be revised within the year is my plan. We have a meeting with about a third of the stakeholder team will be showing up here in Austin for us to take more comments. We also met with a group at the upper Midwest organic conference, so all of their information will be going into the revision. We=ll be bringing in the new NOP policies that have been released. And we=ll also be reformatting it. It=s not as user friendly as we=d like. We=ll be using text boxes and things of that nature so more easy read for folks.

THE CHAIRMAN: Okay. Thank you. Laura Morrison, and then if I=m reading this right then that

will be followed by Brian Baker. Okay.

MS. MORRISON: My name is -- I am Dr. Laura Morrison. I=m the Acting Executive Director, Operations Director for Organic Materials Review Institute. OMRI, as you all well know, is a very familiar organization. I=m a new face in the organic industry. I just recently began working with OMRI back in January of this year. And I=m here today to present some general comments for OMRI and the more technical comments that we have to offer will be made by Brian Baker. I apologize for my scratchy voice. I=m recovering from a cold, so just bear with me. I come to OMRI from academic research. I also have an earlier professional tie in the federal government so I bring to OMRI a bit of a different prospective than you would probably see in a former executive director. And with that experience in mind, I just wanted to make several comments today about what OMRI has to offer, and also what our perspective is in NOSB and NOP partnership. And I=m sure all of you are well aware that there are many different perspectives on the work that you do, and we just want to say that we are very appreciative of the dedication of the Board and the very hard work and challenging tasks that you have before you. And my comments -- I should say our

comments are offered just from our perspective as an organization that serves organic industry. We have a very large constituency a very narrow sense of certifiers but a much broader sense of the public, and so these comments are offered with the public in mind. The other thing I=d just like to say is that OMRI does offer its assistance and puts equal dedication to maintaining the standards of organic. As you know, we specialize in materials issues and in materials standards. And my comments relate specifically to the standards themselves. And with respect to the partnership of the NOP and NOSB this is a partnership that has been mandated by that enabling legislation. And from our perspective there is a very important need for the public to be involved in this, for public comment to be -- the public to be notified of decisions, the transparency and objectivity that is essential in this whole process. And with that in mind, I=d just like to offer a comment on several examples of recent activities which we believe do not really show a very good tight partnership between the two organizations, and we hope that there is room for improvement. With respect to the December, 2002 NOP policy on synthetic substances used in processing that is a policy that

really does not involve the NOSB in terms of its advisory capacity, and we do believe that that is an important role that your Board should be playing in such types of policies as they come out in the National Organic Program. This policy also is not open for public comment and that is another weakness that we find in the overall partnership, and the need for public review and involvement in the formulation of these standards. With respect to the April 16, 2003 proposed amendment, that was an extremely short comment period. It certainly was not enough of a stage of availability of this proposed amendment for public comment, and in addition to that the fact that there were quite a number of recommendations made by your Board that were missing from that proposed amendment -- those proposed amendments. We also see that as a very unfortunate weakness in this partnership that you have with the NOP.

With respect to petitions that come to the NOP, it is OMRI=s belief and opinion that those petitions should be -- there should be much more of an objective process associated with those petitions particularly with the release or the availability of the essential information in order for TAP reviews to be performed on those petitions. And with respect to TAP reviews, we would

request that the Board open TAP reviews for a much longer comment period than is the case for the ones that have just been recently posted. And a case in point comes up with the THFA TAP review petition that just recently came out. And OMRI would just like to point out that that has not been open long enough for public review and consideration, and likewise there was not enough information available to the contractors performing that TAP review. So in the interest of public interest or in view of the public interest we do believe that those activities that the Board is involved in that you should be taking much more aggressive stance as you can do so to insure that the public interest is served. And with that, I=d just like to close. Thank you very much for hearing these comments and I just wanted to say I=m looking forward to working with all of you, and I appreciate the opportunity to speak before you today.

THE CHAIRMAN: Thank you, Laura. Are we going to go right into the next comment here or do we have some questions for Laura before Brian? Okay. Then we=ll go on with Brian, and then after Brian we have John Wallingford. Also, if you have some written comments that you want to submit as a part of your

public statement make sure that you also give a copy to Katherine so that it gets included in the official record.

MR. BAKER: Thank you very much. It=s been a while since I=ve been before the National Organic Standards Board, and for many of you this is my first time testifying. It=s been too long. I want to thank you for all the incredible work that you=ve been doing. And I think one of the last meetings I attended Carolyn Brickey [ph] offered you some very sage advice. I=ve been spending, I don=t know, about the past 10 or 15 years staying up till 4:00 in the morning arguing about different materials, and she suggested we spend a lot more time talking about where we agree, and not spending so much time where we disagree, and so much of what we have accomplished in the past has been where we found common ground, where we found consensus. And I think we can also accomplish more where we have the facts in front of us and where we can make informed decisions. And so I=m here to offer help in both finding the facts and finding consensus. Launching into some of the specifics, we=re looking at some of the petitions...

MR. RIDDLE: Just as a point of clarification, Brian, so we know how to keep the time, are you

testifying also with a proxy or are you...

MR. BAKER: I=m Dave Dacue=s proxy. I=m not Dave Dacue, but I can tell his jokes.

MR. RIDDLE: Okay.

MR. BAKER: You probably heard I already.

MR. RIDDLE: That takes his time though.

MR. BAKER: But anyway just I=ll try not to use up too much of your time. Just to launch into the specifics, there=s this concern we have about some of the specific exemptions on the national list for certain synthetic fertilizers that potentially can be fortified. The fish emulsions, aquatic plant products, and humic acid derivatives. Fish emulsion, fish hydrolyzate was supported by a lot of evidence and documentation on the public health workers safety problems related to spoiling fish. There was no similar set of information provided on aquatic plant products or humic acid derivatives. With fish products you had a numerical limit set at 3.5 pH. There was no similar limit set for K20 values, pot ash values, for humic acid derivatives or for aquatic plant products, and it=s my understanding that the phosphoric acid in aquatic plants also does not have any evidence of that given health risks or any of the problems related to the need for phosphorus acid.

There=s concern that this can be used as a loophole to introduce synthetic fertilizers, especially in blended fertilizer products. I missed the past couple of meetings, and I understand that you=ve heard a few things about inert ingredients and the access farmers have to different products. It=s taken up a considerable amount of our time as well. We=ve been working hard with the formulators, with the farmers, with the certifiers, with EPA, and with the NOSB task force to try and work through this very complicated and difficult problem, but we=re making some real progress. And I=ve handed out a list of 170 crop protection products that are NOP compliant. These are EPA registered pesticides, 25 B exempt pesticides, and adjuvants that are also exempt from EPA registration. And that is a list of the tools. Now not every farmer has every tool in the toolbox but we=ve been talking with EPA, and we=ve been talking with formulators, and they=re on the way, companies like MGK and Dow have reformulated successful commercial products to comply with the NOP. And others have petitioned this Board for consideration so we=re asking that you recognize the progress that=s being made, that you let the process work out, and we=re here to do whatever we can to

facilitate that process. But a reversal of that policy midstream is just going to cancel out a whole lot of progress that we made, and it=s going to undermine the good faith efforts that have been made by a lot of the companies, a lot of the farmers to find tools that comply with the organic standards. The other thing I=d like to talk about is experimental use, and this in order for organic farming to move ahead to continue to innovate to find new tools, we need to have some procedure in place for evaluating experiments and certifiers need to be given clear guidelines. This is something that has come up among the different certifiers who subscribe to us. And we offer our support and want to provide -- want to work with whatever process that the NOSB comes up with to evaluate experiments. Finally, I=d like to talk about a couple of livestock issues. And one has to do with the meeting of nutritional requirements through organic sources. It=s very important to affirm that organic animals are fed organic feed, that their nutritional requirements are met from organic sources. We=re concerned that carriers and other incidentals could be used as a loophole for introducing organic feed -- I=m sorry, non-organic feed into organic rations. And also the NOSB

established a hierarchy that said that animals need to get their nutritional requirements met first by organic sources, then by natural sources, then by synthetic sources, then organic and natural sources were not sufficient. And there=s been no technical review done to find out how much in fact can be met from organic sources and the necessity of those synthetic vitamins and minerals and amino acids. So that is something that should be affirmed and carried forward. Finally, our advisory council sees as the highest priority in livestock, and the opportunity for the greatest arrival at consensus is the review of animal drugs that are not antibiotics but are commonly used in animal production. And we need to -- I think we need to continue to work to get those the highest priority with doing the type reviews and our concern that those animal drugs were not included in the amendment to the national list that was put forward last month. So I would like to again thank you very much for all the work you=re doing and I welcome any questions.

THE CHAIRMAN: Questions for Brian?

MR. BANDELE: I had one.

THE CHAIRMAN: Okay.

MR. BANDELE: Brian, could you comment a

little bit on the public health issues that affected the fish and contrast that to in your opinion the aquatic plant extracts?

MR. BAKER: Well, there are a lot of putrefying organisms that will happen in fish. I mean salmonella is a good example. You=ve got a number of also worker safety or handling concerns that were related to the odors and just the working conditions of having to handle rotting fish. And so those were taken into consideration, and the University of Massachusetts and the University of Washington both submitted extensive reviews and studies and reports on the different titrations, the different levels of various acids that were needed. They looked at a number of different natural acids that couldn=t drop the pH far enough in some cases like acidic and formic acids. There were toxic effects associated with those natural acids. You might give somebody a bright idea to make a herbicide out of them but you couldn=t use them as fertilizer. So it was on the basis of that extensive literature review that a pH of 3.5 was set as the maximum acidification for fish.

THE CHAIRMAN: Other questions or comments? Rose. Hold your hands up high because I=m having a hard

time seeing them.

MS. KOENIG: I just had a question. Do you know -- I don=t know if you have any information on citric acid as a natural, you know -- to function the same, I guess, as phosphoric acid in lowering the pH. I mean is that...

MR. BAKER: It=s a much weaker acid, but it has some advantages and disadvantages. That was one of the acids that the studies for fish used. I=m not aware of what -- again, I=m trying to understand, are you talking specifically with respect to fish?

MS. KOENIG: Aquatic plants.

MR. BAKER: Oh, you=re talking about aquatic plants.

MS. KOENIG: Yes.

MR. BAKER: Yeah, I don=t know, and frankly I haven=t seen the petition. I requested it, but I -- frankly, I talked to the petitioner, not to NOP, but I=ve not seen the information and discussed with them the use of citric as an alternative. The reason given for not doing so, again, telephone conversation. It was mainly a cost consideration.

THE CHAIRMAN: Questions. Okay. Thank you, Brian. I am going to declare a ten-minute recess. Be

back here right at ten minutes. We have a number of folks set. Next is John Wallingford, but we have a number of folks set to comment. We do want to get through all of those. Any of you that are signed up to comment and would be willing to do it tomorrow instead of today, we would be very amenable to that as well, but we will reconvene right at ten after.

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[Off the record]

[On the record]

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THE CHAIRMAN: We=ll reconvene. And while Mr. Wallingford is coming forward, then after him will be Robert Hadad. The other thing too just as a point for the Board is because a lot of the folks come up and give comments, we do have some questions for them afterwards. To expedite things the questions that the Board asks of those individuals at this point, I would ask that we keep those limited to the issues that are on our agenda for the next two days. If you have some other things that you want to talk with the presenters about, do that during the break or off to the side so that we keep the discussion actually focused on our agenda here. So with that, John Wallingford. Okay. It looks like we=re

making up five minutes. Robert Hadad. It=s one that has been submitted in writing here for reading into the record. I=d also say when the Chair reads these, I=m under the same five-minute constraints here. This is from Robert Hadad, Humane Society of the U.S., comments to the NOSB, May, 2003. As we all know, the NOP simply perceives organic agriculture as a marketing took which singly is the root of all the problems the federal law faces. With that in mind, let=s focus on fixing at least on main problems outdoor access for poultry. We need to strengthen and clarify this important segment to the rule. It is time for the NOP to quit manipulating the intentions of the regulation to make it easier and less costly for corporate poultry interests to acquire the USDA organic seal. Before you are proposed clarifications to assist you in strengthening the regulatory language and close the loopholes open in the NOP=s statement of interpretation announced after October 21, 2002. It is time to make outdoor access the major issue it is. Outdoor access must be part of the organic farm plan, and implementation of these plans must be in place by the farmer prior to gaining organic certification. Any producers applying for certification and not providing the opportunity for outdoor access

must not be granted certification or allowed to sell products as organic until access to the outdoors following all proper regulations are in place. Any producer already certified who is not allowing the opportunity for outdoor access may be found in major noncompliance. The issue of outdoor access has been attacked by corporate poultry interest. Claims have increased due to disease prevalence as compared to confinement production have not been scientifically proven by research. In fact, the major outbreaks of avian influenza, salmonella and other pathogenic diseases have been highly associated within confinement production systems. The issue of weather is also not a real threat to deny totally outdoor access for poultry. By allowing the opportunity for birds to go outdoors on the ground, not on porches or other artificial structures, is based on the bird=s ability to determine their own comfort levels. Birds have been raised in this manner successfully from the deep South to the far north. If producers are not so concerned about weather conditions denying outdoor access then organic production is not an option. No one is forcing a producer to be organic. Please take the recommendations before you seriously. This issue will not go away until

it is solved satisfactorily. The integrity of organic agriculture depends on how this issue and others soon to follow are acted upon. Okay. So that is in the record. Just as a procedural point because I do have another comment to read into the record, from this point forward those folks that are here to testify in person if there=s something to be read in the record, I will do that at the end of the personal comment just as a courtesy to the folks that are here if there=s no objection from the Board to do that from here on out because I do have another one to read into the record. I hate to do that while there=s some folks waiting in the audience to give their comments. Okay. With that, we have, if I=m interpreting this right, Emily Brown Rosen, giving a proxy that=s been submitted by Doug Crabtree. And after that will be Thomas Hardy.

MS. ROSEN: Good morning. I=m Emily Brown Rosen from the Organic Materials Review Institute, and I=m very glad to be here and have this opportunity today to talk about the -- my major focus today is going to be the NOP policy on synthetic substances subject to review and recommendation by the NOSB. That was posted on December 12, 2002. As my previous colleague testified, OMRI is very supportive of the efforts of the NOSB to

clarify policy and review materials in the public process, and we do thank you for your time and effort to do this. You have received from us previously a detailed set of written comments that are about eight pages on this topic, and if you need hard copies we have more of them here with us. There=s also an appendix document that we can make available to you also that lists a lot of these reference materials. And we also have a corollary paper that=s sort of a rehash of our 2000 comments available on the processing list with some alternative suggestions so we have that available on hard copy here too today. Regarding this new policy, we understand that the NOP policy was developed out of a desire to make a clear explanation regarding which materials are subject to review under the NOP standards, and that=s certainly a worthwhile goal. We need clarification on these issues. However, this policy is very complex. OMRI has received many questions and finds that certifiers and handlers do not understand this policy. In addition, we do believe that this policy does represent a major change of policy for processed food materials, materials used in processed foods, and as such there needs to be public notice and an opportunity for comment, and because of change of

this scope it should be a regulatory change that has the Federal Register process. Basically this policy provides a new definition of the ingredients still present in the definition of ingredient itself. It redefines the definition of ingredient. It states that Athe NOP defines still present@ as only certain FDA categories of direct, secondary direct, or food additive. The key change here is that NOP is exempting from NOSB review all indirect additives and all substances that are deemed food contact substances by the FDA. The FDA defines a food contact substance as any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting or holding food if such use is not intended to have a technical effect. When FDA makes a determination that a substance is a food contact material and has no technical effect in such food, it means that the manufacturer of the substance does not have to file a food additive petition which requires subsequent Federal Register notification and disclosure of data to the public. Instead, the FDA will issue a food contact notification, an FCN, on its Web site if the FDA wants no objection internally to the manufacturer=s request. Right now this Web site has

over 300 materials listed on it. What are the implications of this for organic policy? Well, the criteria used by FDA to determine food contact substance status do include some basic requirements for evidence concerning health safety, carcogenicity, and some consideration of impact on the environment. It does not take into account the OFPA criteria or the processing criteria in the regulations for review of materials for organic. For instance, does not consideration of the substances necessary because of the unavailability of wholly natural substitutes, does not consideration whether the nutritional quality of the food is maintained, whether the substance is not used as a preservative or to recreate a flavor or texture lost in processing, or if it=s essential for the production of that product. All these things are organic criteria. FDA does not review for organic criteria. Furthermore, it will be very difficult to evaluate compliance under this policy because for both the certifiers and the handlers of these materials because substances are listed for many uses in the FDA regs and 21 C.F.R. Some are not listed at all because they have statuses as prior sanctioned approval. And there=s more than one way of determining if something is a food contact

substance, not just the Web site but it could be in the definition and the other parts of the regulation. So this means certifiers need to perform a case by case review of all additives to determine if their use in each product would meet the FDA definition of food contact substance or if it=s an indirect additive, and if the specific brand name product being used is being used according to specific use restrictions not on the FCS list. This will be a burden for all concerned, and it will lead to inconsistent enforcement. The NOP policy also provides a blanket allowance for all indirect additives. In general, these regulations cover substances used in articles in contact with food such as sanitizers, lubricants, adhesives, labeling inks, processing equipment, and packaging materials. However, also on this list are quite a number of preservatives and fungicides, and allowance of these materials as indirect additives directly conflict with OFPA and the regulation which prohibits those use in packaging. So just a couple examples. For the indirect additive Nisin is used as an anti-microbial that=s added for packaging, people are working on incorporating it into plastic wrap. That will have to be on the label and the patent shows that it works by migrating it into the product and

being anti-microbial. Piperonyl-butoxide and pyrotine are allowed as components of bags under the indirect additives statute. PBO has been specifically reviewed, Nisin has been specifically reviewed by the NOSB and prohibited back in =96. There are several chemicals on the FCS list. Some of them are volatile immune types. It=s not clear whether all chemicals are considered food contact substances or not. That=s arguable. Ethyl bicarbonates is on the FCS list as an anti-microbial that=s directly added to juice for the purpose of controlling microbes. It=s on this list despite the fact that it=s not supposed to have a technical or functional effect on the food. So we think that you as NOSB need to ask the public if you, the NOSB, should delegate the decision-making process to the FDA in support of these types of materials for organic processed food. If this NOP policy is adopted and implemented, it should reflect the consensus of the whole organic community with your clear recommendation and with guidance that enables all segments of the community to know what is or is not a food contact substance. So our recommendations are as follows. We would suggest that you continue to maintain the integrity of the national list for processing substance

as it currently stands, a closed positive list which means only the organic ingredients and substances appearing on this list may be used in food labeled organic. This is consistent worldwide. This is consistent with Codex and EU standards, and will make our life a lot easier when we come to trading and negotiating equivalency. Secondly, clarify that materials that do not have food contact and do not impact the organic system don=t need review and provide reference to the appropriate FDA sections regarding indirect additives. Guidance can be developed as needed for specific areas such as packaging sanitizers or lubricants. Three, clarify that OFPA and the NOP ban on preservatives, fungicides and pesticides applies to all packaging whether or not the substances are considered indirect additives for our food contact substances. Four, reaffirm the responsibility of certification agents to verify the prevention of contact with prohibited substances. This is where the judgment call gets made. Does it impact the integrity of the organic product, does it need to be on the list such as say a sanitizer. And our last recommendation is to really look at some alternatives. Consider and discuss a possible revision of the processing rules. I know

there=s a lot of hard calls being made. There=s a lot of non-listed additives that are used in food processing. What we proposed back in 2000 and actually the preamble references this, it was positively received but the Board didn=t really have enough time to deliberate on it, but I think it=s time to look at it again, and that is revising the made with organic category. Right now the non-organic food additives allowed in a made with organic product is 70 percent organic. They also all have to be on the national list. If the made from organic should be exempt from that requirement, and we recommend a short list of prohibited materials for made with organic, then that would provide a lot more leeway for manufacturers to produce a product that is clearly identified to the consumer. 70 percent of the ingredients are organic and those would be on the label and identified. They could experiment and use the processing aides that they need to make the product. People that wanted to make a 95 percent product would have the stricter standard. All the additives have to be approved and they have the benefit of the USDA seal. We think this is sort of a much more practical way in the long run to deal with this issue and not yield to the pressure of having all these hundreds of synthetic

additives for organic products. I think that=s something the consumer can understand. It would be transparent. So we have that proposal. We=re done. Okay. Thank you. Any questions?

THE CHAIRMAN: Questions from anyone? Yeah, Kim.

MS. BURTON: A couple questions. I probably worked most on this policy than any Board member, and I=m still not absolutely 100 percent clear on it but I do want to make a couple comments on things. Saying that it=s a major change in policy, I=m not so sure whether I agree with that because it=s my understanding that the food contact substance list just replaces the indirect additive C.F.R.s so again that clarification.

MS. ROSEN: Well, the indirect -- yes, but that=s not in the current NOP policy, the indirect -- the regulation.

MS. BURTON: So that=s something for me because I don=t think it=s a whole shift. I think it=s just FDA creating a new list other than the indirect list that is replacing this list. And that this Board and every Board prior to us has never dealt with indirect additives in processing. Packaging criteria, yes, we do have to follow those guidelines, but even

this Board acknowledged that we don=t deal with indirect additives on the national list. As far as the burden goes from a processor, I=ve gone through and helped people figure out how do you get to the Web site, how do you use the Web site, and again I just see it as a handling plant issue, not necessarily such a burden on the processor to go through. We have lots of CFRs we have to look at. We have lots of regulations we have to look at but that=s just the process. So we as a committee, we even haven=t had a lot of time to put into this, and there=s still a lot of questions that I acknowledge have to be worked out through this, and hopefully together we can get it all resolved.

MS. ROSEN: Any other questions?

THE CHAIRMAN: Questions, comments? Okay. Mark.

MR. KING: Yeah, I wanted to just build a little bit on what Kim said in that the committee has looked at this very strongly, and we agree that there is significant work still to do. And then secondly I=m just sort of interested, and we don=t have a lot of time so maybe we should talk about this off the record later, but your comment about a revised made with category. That=s something I think that we can certainly explore

and discuss.

MR. RIDDLE: I do have a question, an actual question, and that is picking up on what Kim was saying, I=ve looked at that list too, the food contact substance list, and aren=t there items on that list that also could be direct additives or ingredients?

MS. ROSEN: Definitely. It all depends how...

MR. RIDDLE: So they aren=t all just indirect. It could have been moved to a new title.

MS. ROSEN: Right. And also if they were prior sanctioned they could appear on that list too, which would make them normally subject to an NOSB review.

MR. RIDDLE: Okay.

MS. BURTON: I actually went through all of our NOSB recommendations that we=ve made thus far and compared the two. I went to the C.F.R.s and I said, okay, it falls under 180 -- give an example where it could be subject to review or it couldn=t be subject to review, and then you go to the actual specific use in this food contact substance list and if it=s an indirect food additive and it=s not subject to review, if it=s a direct then it comes to the Board and it has to go through the review process. And I went through that for

every single material. So, yes, there are different applications, and I think it=s the charge of this Board to make sure that that happens. There=s a process.

MS. ROSEN: May I respond to that?

THE CHAIRMAN: Go ahead.

MS. ROSEN: That=s true the materials are on the list, but materials may be determined to be food contact substance without being on that FDA notification list. If it=s described in a way that the definition meets the definition of food contact substance in 21 C.F.R., you could argue that it=s a food contact substance. And if it=s a prior sanction like cellulose and a number of other things that you=ve reviewed to put on the list they would have -- they could be considered food contact substance without filing a FCN notice. So there=s like a whole lot of variables about figuring it out, and I think you=re going to see suppliers coming to certifiers with a lot of different claims about the status of their materials. It=s not quite as clear cut as just looking on the Web and saying this is or isn=t a food contact substance.

THE CHAIRMAN: Okay. Thank you, Emily. Next we have Tom Harding, and then after that is John Imaraju [ph]. Okay. Go ahead.

MR. HARDING: Good morning. First of all, I want to thank everybody on this Board and all those boards before, all the members of the Board before for the great job, and also the NOP staff. We have implemented, of course, the law and needless to say we have a few things to follow up on. I=m going to cut through my public comment because it=s written, and I=ll just give it to the secretary. But in essence I was a little surprised to find when we saw the proposed rule that was just published that there are a number of materials that had been approved by the NOSB that did not appear. Now there=s been lots of explanation. There=s been a peripheral explanation in the rule itself, but I think it=s caused a lot of confusion in a number of my clients. There=s been a number of them that call and say wait a minute, I thought this material was approved by the NOSB, and on and on and on. Anyway, you=re going to hear about a lot today, I=m sure, and I=ll go right to the heart of things. What I think is really important is that the way this last part reads is that it says that it=s under current review, and that sooner or later in an appropriate fashion the Secretary will come forward and introduce a new proposed rule for these other materials and they could do the scheme of

things. I don=t know what that means but it=s caused a lot of confusion, and what I would suggest we do under this proposed rule for these ten or so materials that made it to the list that we come out with a public statement and clearly state what happened, where these materials stand, what will be the current status of them during their additional review process over and above the NOSB, and then when there will be a new proposed rule that will deal specifically with the remainder of the list that you went through October with. I can only tell you that from an industry standpoint I would not want to be a certifier at this moment to try to interpret all this. This is a terrible mess to unbundled, and I don=t blame a soul, but you need to have it in the public so they know exactly what they can do, what they expect to do, and how they=re going to be interpreted at the inspection certification level. Otherwise, they=re going to have a lot of products that are not in compliance and some hoping to be in compliance, and sooner or later someone is going to get a major non-compliance, and then the public is going to get engaged at the consumer level. So I would suggest and encourage you before you adjourn tomorrow that you establish some frame work that we have a public notice

as to what=s going to happen position wise to these other materials. Thank you.

THE CHAIRMAN: Questions or comments for Tom? Thank you very much. John and then after that we have Grace Marika [ph].

MR. IMARAJU: Good morning. My name is John Imaraju, and I=m the product manager for Amvac [ph] Chemical Corporation, and we have an organic product line that we=ve been struggling with. And we=ve submitted a petition for Tetrahydrofurfuryl alcohol last year, and I notice ironically it was submitted last year, May 13, 2002, and so here we are today. But I just want to go on the record and say that this process is taking an extreme long time, and it=s over and above the 260 days that it=s been to a TAP reviewer, and it=s caused extreme disruption on the part of my product line, and not only to the sales reps out in the field but also in terms of customer relationships as well as our distributors. And I think one of our distributors has sent a letter to the NOSB indicating that his sales have dropped almost 80 percent from last year because of the situation. And I also wanted to say that I was extremely happy on Thursday when I found out that the THFA, the TAP reviewer had came in, and so we are on

board. It=s on the agenda as planned. However, we at the company were not notified, so if I did not go to the Web site and click on the THFA link, embedded link, I would not have known today that the TAP review was complete, so I just wanted to make sure that in the future companies that have submitted petitions also get their reviews in a timely fashion so that they=ll have time to go over them. I also want to echo the comments of Emily from OMRI regarding public comment period. Obviously, it came in the last minute and I hope that doesn=t become an issue because we already suffered, as I indicated, extreme hardship. I also must add that OMRI themselves have conducted a review on THFA over two or three years ago and have forwarded -- I think Kathleen Dowling [ph] had mentioned that to us some time back. Also, I worked with Nancy Ostiguy on the task force, and I think that=s an important piece that needs to be resolved quite quickly, list three and list four situations. The question I have is if the current list 4A and 4B on the EPA, if any of those materials were subjected to the same scrutiny as a TAP reviewer from the NOSB, would they all pass or fail. Is there consistency between that list and what we=re proposing to be added in terms of what=s allowed as an inert

ingredient. I also want to just add that I=m available both days and so if there=s any clarification that=s required I=m available. Granted, we didn=t have a whole lot of time to respond to some of the reviewer=s comments on the petition. I did my best. We worked overtime over the weekend and we got some of our answers together, so I look forward to interacting with the group. And as I already mentioned that I should be around, so I will be around. Thank you.

MS. BURTON: I have a question for John.

THE CHAIRMAN: Kim.

MS. BURTON: While you=re up there because otherwise I would bring you back up later on. We have been going through from the material review standpoint what are the proper time lines to give a petitioner adequate time to respond to a TAP review, and granted yours came in at the very last minute. We have pushed and pushed and pushed to have your material. I mean we have talked to you, Bob and I, extensively about this process, and any of the materials we=ve had a difficult time with it has been this material. So in your opinion if we were to ask you the minimum time frame for you to respond to your TAP, whether it be two weeks prior to meeting, or 30 days or 60 days, what do you feel as a

petitioner would be adequate time frame?

MR. IMARAJU: I think speaking purely from my product end, and I=m in the corporate office in Newport, so I have access to a lot of resources that perhaps other people wouldn=t have in my position, but even given that I have all the resources around me, I would say we probably need a minimum of three to four weeks just to prepare and have a good understanding of what the review is all about, and one thing I was really surprised about the non-CBI version going out of the TAP review. That seems to have caused some confusion, and so my recommendation would be if there are already on some sort of confidentiality, we have no problem, our company will not have a problem disclosing what the inert ingredient was being used for but I think it has caused some concern in terms of the TAP reviewer to give a strong opinion one way or the other, at least one of them did, two of them said they=re pretty okay with it, but one of them had an issue in terms of not having the complete information in front of them to make a judgment on it.

THE CHAIRMAN: Jim.

MR. RIDDLE: I read through the TAP review, and that=s what confused me is I couldn=t tell what it=s

used for, so you=re saying that you can talk about that so could you...

MR. IMARAJU: Yeah, all these things...

MS. BURTON: Could you wait till...

MR. RIDDLE: Well, either one. If Mr. Chairman would rather...

THE CHAIRMAN: I would rather wait for that when we=re on that actual material.

MR. RIDDLE: Okay.

THE CHAIRMAN: If you=re available. You said you were going to...

MR. IMARAJU: Yes, I=m available.

THE CHAIRMAN: Okay. Rose.

MS. KOENIG: I just wanted to make a comment on the process because I think it=s fair to say that I think the audience needs to be aware that within that petition there was what is referred to as confidential business information. And because of that I would assume is some of the reasons why there was more of a time delay in this type of process because when you have those things it doesn=t go necessarily through the same steps as it would in an application that was complete. Now the more complete the information the more easier it is for the reviewer, the contractor, to access

information to answer the questions. I mean there=s seven criteria, and then it falls back again when it comes for us to review it. If we have questions, we base our decision on those seven criteria. If two of the seven criteria are not answered completely, you=re at a great disadvantage as far as...

MR. IMARAJU: I understand, but you were just following the process as was presented to us and presenting a CBI version and a non-CBI version, and I also understand that the reviewer sought clarification about three or four weeks ago asking why the CBI information was not -- could that be made available. And I think as I understand it that=s way too late. You should have asked that maybe in June of last year.

THE CHAIRMAN: I think that we have made note too the time frames that we have to address that, and this was actually part of our discussion yesterday on how we do this materials process. Owusu, and then we=ll...

MR. BANDELE: I just want to get one clarification. Did you say you had no problem with giving the TAP reviewers both versions?

MR. IMARAJU: Yeah, absolutely as long as -- the only thing we ask of you is so that it be under

confidentiality with you not to disclose whatever was presented to them because we do it all the time, we have confidentiality agreements with people and we disclose business information all the time. But that agreement is what we go by, and so as long as they sign some sort of secrecy agreement between NOSB, we don=t have a problem disclosing the product.

THE CHAIRMAN: Okay. Owusu, one follow up and then we got to move on.

MR. BANDELE: This is a clarification. Would there be legal implications with...

THE CHAIRMAN: Yeah, I=m trying to think. I=m used to signing a lot of non-disclosure agreements on various things and what we have the right -- we=ll look at how we can handle that.

MR. IMARAJU: It=s a case-by-case basis, but I=m saying with that specific product, you know, that would be my position.

THE CHAIRMAN: All right. We have Grace Marika, and then Candace Boran [ph]. We also have some people indicating that they=re cold out in the audience but you can do as the Board is doing and sit real close together here. Okay. Grace is not here. Let=s see. Oh, I=m sorry. I skipped over Brian Meckaroy [ph].

MR. RIDDLE: Is this a proxy? So this is another ten minutes proxy?

THE CHAIRMAN: Is this a ten-minute...

MS. SONNEBEND: Yes.

THE CHAIRMAN: Okay.

MS. SONNEBEND: I hope it=s like 7 or 8. Do you want a copy of the proxy? It was faxed in to NOP.

THE CHAIRMAN: Yes.

MR. RIDDLE: Thank you.

MS. SONNEBEND: I=m Zia Sonnebend, California Certified Organic Farmers, offering comments on several subjects on behalf of the organization today. Thank you for letting me address you for the umpteenth time. I=m going to start with addressing comments about the dairy herd replacement animal policy, which many of you are probably surprised because I don=t usually talk about that kind of thing. But CCOF has a number of dairies that are certified organic, and many of them came to our recent certification standards meeting because they are very concerned about this issue, which is I believe in front of you as a recommendation. They have several opinions about this, our dairy producers, who CCOF as a whole agrees with. They do not like having a two track system for dairy herd replacement animals. I=m not

addressing herd conversion here. That=s been talked about for a long time. But once your herd is converted they would like to have the same policy applied to all replacement animals. It otherwise is extremely confusing. You have to track each dairy back to the system they originally came in on and create the system that=s not really fair to everybody in the same way for replacement. They also feel that all replacement animals brought into a certified organic herd should be raised organic for the last third of gestation. They feel that while this is very difficult to do and many of our dairy producers went through extreme hurdles and a lot of mortality and illness and other challenges in trying to bring about the system but once they have their system in place they=re altogether better organic managers and can assure the consumers that a product that is fully organic and has been raised organic for a suitable amount of time. This position supports the position of the OCC that they have taken on this matter, which is the Organic Certifiers Council. So we do hope that you will take this under advisement when you consider your position. Okay. Most of you know me as the materials girl, and I do have some comments to make on materials. I=ve turned in a petition before you this

time for glycerin oleate, a list three inert ingredient that=s in a product. I put this petition forward as a good test case of a petition on a list three inert. I do want to say at the outset that I have no financial interest in this petition. I don=t care in one way if you review it or if you vote for it or against it except from the point of view that it allows our growers to have more tools and addresses this big problem that I see we still have with list three inerts. CCOF has 82 apple growers representing just over 1,000 acres. That is not very large out of our overall 1,200 growers with 135,000 acres. However, this happens to be one material that is not scale specific. Most of our apple growers are small producers. They have one to 20 acres of apples. It=s a common thing for a retirement home -- a person who buys a retirement house and has apple trees or a small scale producer who is part time. So and then we do have some more larger producers too who also need it so this is not just a big grower, small grower thing but cuts across scales. As an inspector during the time when I=m not standing before you, I=m out standing in someone else=s field, I see a lot of growers and what their needs are. And while I agree with Brian Baker that we have made considerable progress in getting

reformulation in many product categories for list three inerts, there are a few generic categories where we have not gotten there yet in terms of have a suitable product that does not contain a list three inert. And so I put this product forward -- this material forward as one which seems like it could be eligible because while it is -- this CAS number is on list three you have already reviewed a very similar CAS number that=s on list four. It=s not clear why this is on list three exactly. There=s a lot of confusion among CAS numbers for common names, et cetera. We went into all the details on the petition so I=m not going to go over them again but I=m happy to answer questions later when you consider the petition. Anyway, I picked this material as something that affects a large number of growers and is a good test of the list three inerts. Now the micronized nature of the product, which is why this inert ingredient is needed as a defoaming agent results in the ability to use a lot less product than they would have to do if they used just a plain sulfur or unmicronized version without a defoaming agent. So this is also a case where it=s not just a cost issue. It=s not -- because the micronized product probably costs a little more than plant sulfur but it=s more an issue of safety

to the workers applying it, the amount of material that you=re subjecting the environment to because you put a lot more sulfur out there when you=re using another product, and the efficacy -- I also can=t say the name of the company that makes this product, but I believe she=s going to talk to you later. So anyway we feel that we do need a product that has a defoaming agent so that less material can be applied more efficiently, and therefore we think this is a relatively benign substance that bears your consideration. Now on the further subject of inerts when the task force presents their recommendations, I will be among the minority dissension of the group of the task force. I did not support the recommendation to go ahead and just only allow list four inerts. I am not in favor of all blanket list threes on the list either by any means, but we=re going to see a lot of mistakes in the system of only allowing list four. Until some time down the road where we finish the process of reformulating and we finish the process with the EPA reclassifying, and we=re traveling down that road but we=re definitely just not there yet. And so I=m comfortable with that recommendation unless there=s either a phase out, a grace period, or a compliance procedure in place ahead of time that addresses what

happens to these people and give people who mistakenly use these things some leniency for a period of time while we=re working out the kinks in this. I=m in favor of a formalized way to call uses of historically used products that may contain list three inerts of minor non-compliance until we get to the point where we can comfortably review all the necessary inert ingredients that need to be reviewed. It is particularly annoying that certain people have stated that there has to be a three-year decertification process on a grower who used an unknown inert ingredient without putting that statement in writing but then they=re not enforcing anything on the input companies who are making false claims to the growers that their products are okay to use. And CCOF recently, and I won=t go into much detail on this, but we recently turned in a complaint on a product manufacturer who put on their Web site certified for organic use. We got a letter back from NOP compliance division saying they=re not enforcing this type of complaint, they=re only enforcing on producers, complaints on producers. And so that=s a real disconnect for us, and along with the body care things and the organic herbicides, I think you really need to like try and get compliance. One minute out of the ten

minutes. Okay. So this leads me to the THFA petition. It is appalling that you wouldn=t disclose to the -- and I know I should be talking back there but they=re not up here, it=s appalling that you wouldn=t release the generic ingredients to the TAP reviewers of what this is used for. Therefore, because the TAP review is incomplete and partly because I also happen to know what the material is, the generic material is, I know there are alternatives and I know that those TAP reviewers should have looked at the alternatives. And because of that, I feel like you have to deny the petition the way it stands because it hasn=t been properly evaluated. And I really think you should really press for disclosure of these things. I understand the need for confidential but -- CBI for certain things but not for the generic materials that this is.

MR. RIDDLE: Time.

MS. SONNEBEND: Okay. I=ll talk to you about compliance more later.

THE CHAIRMAN: Thank you, Zia. Questions? Kim.

MS. BURTON: Just a point of clarification, Zia, because again I worked very closely with this petition, and from our standpoint and from what we did

in the process with the CBI information, we followed the procedures that we were given, and that being that the NOP can review the CBI information so that=s just a point of clarification.

MS. SONNEBEND: I understand that.

MS. BURTON: We can=t reject the TAP because the CBI was reviewed by the NOP.

MS. SONNEBEND: No, you can reject the TAP because the alternatives weren=t addressed.

MS. BURTON: Yeah, but your statement was rejected because of CBI. At least that=s what I heard. So I just wanted to clarify that. The CBI was reviewed and evaluated and we were told it was okay so just a clarification.

THE CHAIRMAN: Other comments, questions? Okay. Thank you, Zia. Okay. Candace, and then after that -- excuse me. The organic community is not known for penmanship here. Lisa Englebert.

MR. RIDDLE: Englebert.

THE CHAIRMAN: Englebert. Okay.

MR. RIDDLE: I think that=s the one written you had.

THE CHAIRMAN: Oh, okay. Yes, it is. All right. Then, excuse me, Candace, then after that we

will go to Carol King. Okay.

MS. BORAN: Good morning. My name is Candace Boran, and I=m an organic consumer, and I also run the Say No to GMOs Web site. This is my first opportunity to address the NOSB. I have talked to a few of you at meetings in the past, but I really don=t know many of you very well or really all of what you do. I do keep up with some of Steve Sprenkel=s columns so I get a little information there. I=d like to make my comments from a consumer perspective. And I=m a consumer who really relies on organics. If it=s not organic, I don=t eat it. The question in my mind I=ve had ever since the program went into effect is can I rely on the USDA to maintain the integrity of the organics that I rely on and that are so important to me. I think the jury is still out. When USDA hijacked organics it looked like it might be a good thing but is it going to be a good thing. We=ve had a few bumps in the road, and the big one of course was the big three trying to get those into organics and we managed to prevail on that. I didn=t know for how long. Then the race to the bottom began when other certifying agencies were not allowed to have higher standards than the USDA standards. I know that those who choose to seek to delude organics or attempt

to infiltrate the process will keep coming back again and again to rewrite the standards bit by bit. I=m specifically concerned about the national list on additives and of course GMOs. The USDA label is great for marketing but what about the quality. I=ve already given up corn, totally given it up except what I grow from my own safe seed because of what I perceive as contamination from GMOs. It=s pretty pervasive. Non-GMO canola soil also is becoming a thing of the past I think even in organics. The commercial introduction of GMO wheat and rice will be really a final blow to genetically viable staples of organics because eventually this problem will be everywhere. I know that organics is based on a process versus product philosophy, and I can appreciate that. And I don=t want to put organic farmers out of business by talking about the GMO issue, but as a consumer I think I have a right to a product that=s guaranteed to be free of GMOs, not just one that has been processed and grown according to organic standards. A lot of consumers don=t realize the difference. They figure that any organic product they buy is going to be free of GMOs and we all know that that=s not the case for adventitious contamination in GMOs, and this greatly concerns me. Part of the problem

is that the regulatory agencies including the USDA are promoting biotech with one hand and promoting organics with the other, a little bit schizophrenic. I don=t know what they=re thinking, and I don=t know why more isn=t being done by organic stakeholders to prevent what seems to be inevitable. If this trend continues the future of organics looks pretty grim for consumers like me who don=t want to eat GMOs. But for those who are looking to cash cow the organic label, it will be fine with them. And I can see even see a time coming, and I hope this isn=t true, the organic label won=t mean much. So what can we do? Well, I=m just growing more of my own food and kind of dropping out of the system, and I continue to sound the alarm. I=m not going to just shut up and eat. I=m not here to bash the NOSB. I know you try to do a good job. I=m not here to bash organic farmers. I=m turning to you in hopes that when push comes to shove you=ll do the right thing and really uphold organic standards what you can do. I know it=s not easy. There=s tremendous pressure and you have to cut deals and compromises. I just hope that the consumer doesn=t lose in the end. My health is in your hands. The health of the environment is in your hands. Please do everything you can to keep organics organic.

I thank you for the opportunity, and I have written on the comments I was going to submit, so may I send it by E-mail to Katherine?

THE CHAIRMAN: Yes, you may submit -- comments that are part of this public meeting need to be submitted during this meeting. If somebody wants to submit follow-up comments, how do we handle that?

MS. BORAN: It would be just this version just amended, and I will send it to you.

THE CHAIRMAN: Okay.

MS. BORAN: Thank you very much.

THE CHAIRMAN: All right. Just a second. Does anybody have any questions or comments? Yeah. Rose.

MS. KOENIG: I had a question just in terms of the consumer perspective because it=s obvious that people don=t want to eat GMO, and that=s an area that I think the USDA, at least NOP, is aware of on a consumer level but from a consumer=s perspective in terms of GMOs can enter organic systems in other ways in terms of byproducts that come from perhaps conventional operations that might be used as soil amendments, you know, like soybean meal, for example. There=s no regulations that an organic farmer has to use, you know,

fertilizers that would have organic soybean meal in them. What do you think is the consumer=s perspective, I mean where do you as a consumer draw the line understanding that we=re dealing in a world that -- we=re relying a lot of times on byproducts that we don=t have control over.

MS. BORAN: Right. It=s a tremendous problem. I know this has been discussed before. Personally in my own agricultural practices I=m staying away from commercial inputs entirely and trying to do everything on my own but that=s quality products that I can find. I don=t like the idea that GMO products are being used as a byproduct and they=re getting in there. This deeply concerns me, and I know that consumers are concerned also. Most consumers aren=t even aware that this is happening and that=s the problem. Generally on GMOs there=s a little education out there. There needs to be more of that, and I think if people knew what was going on that they would be more outraged and speak out more. But I wish the NOSB would get a handle on this, please.

THE CHAIRMAN: Okay. Thank you, Candace. All right. Let=s see. Lisa Englebert.

MR. RIDDLE: That=s that written one.

THE CHAIRMAN: Oh, I=m sorry. Yeah. Go to the end. Carol King, and then Ervashi Rangan [ph]. I don=t see her. Oh, she=s in the back. Okay.

MR. RIDDLE: Is Carol King here?

THE CHAIRMAN: Is Carol here? Okay.

MR. RIDDLE: Oh, those are together.

THE CHAIRMAN: Those are together.

MR. RIDDLE: We got to read the fine print.

THE CHAIRMAN: Okay. Great. We=re moving right along. Ervashi, and then Leona Hoods. And again just an admonition to the Board. When we ask the questions make sure we=re asking questions that are germane to our agenda for this meeting.

MS. RANGAN: I brought show and tell items for you. I=m going to hand this off to you guys when I get done with it. My name is Ervashi Rangan. I=m from Consumers Union. I=m the Director of our eco labels project there. Our mission at Consumers Union is to test, inform, and protect consumers. We are a non-profit organization and we provide information to consumers. One of our areas is food and food safety and labeling is a very big part of that area, and that=s what brings me here time and time again. We at the Consumers Union appreciate your tireless efforts at the

NOSB to maintain the integrity of these standards, and Consumers Union shares your vision in maintaining consistent and sustainable organic standards. This has proven to be a very difficult goal in the last six months, and Consumers Union would like you to know that you=re not alone in trying to protect the integrity of this label. We are also there behind you and so are many other groups here. We believe that an important part of your mission as you stated is to maintain a list of allowed and prohibited materials in organic production. In point of fact your only statutory authority is to review those materials and list them. And you=ve been given that authority not because we need to determine the safety of those ingredients but rather the appropriateness of those ingredients used in organic production, and consumers have come to expect that from this program and cannot make informed purchasing decisions if this process is not intact for all materials used in organic production. So that leads me into first I just want to talk about significant policy changes that have gone on in the National Organic Program that seem to be going on without any public disclosure or input. One problem is that when you make significant policy changes they need to go through

proper rulemaking. Consumers need to be brought into the picture and need to be provided the opportunity to make public comment whether it=s on poultry access to the outdoors and what that exactly means, or whether a substance is now an ingredient and therefore not a food contact substance. Consumers need to have input into those policy clarification statements, and while that isn=t in your domain specifically we urge the National Organic Program to issue significant policy changes through rulemaking because that is what the due process of the law is. It makes it difficult for you as the National Organic Standards Board to carry out your mission in preserving the integrity of that label if these policy changes can take place in the clarification statement. That leads me now to food contact substances, one of the policy clarification statements. We support OMRI=s comments that they have made at this meeting, so I=m not going to repeat OMRI=s comments, but want to maybe take a step back and look at what the Act actually says. It=s the Organic Food Production Act. It was not the product itself but the production of making that product, and processing aides are part of production. They may be classified by FDA as food contact substances, they are still used in the

production process for organic materials. In October we testified in front of you about running high fructose corn syrup over benzene derived columns, and urged this Board to take up the issue of processing aides like benzene derived columns, and what their environmental impact is in addition to taking what FDA has already done on safety, again the mission being to review materials as appropriate for organic production, not simply deemed safe by the FDA. The other issue that I want to bring up is that Silk soy milk was just recalled recently for inadvertent contamination of cleaning agents in the milk. If consumers come to find that cleaning agents, which obviously should not be used, inadvertently get into an organic product that is going to undermine consumer confidence in that organic product. Finally, another loophole in this is hydrogenated oils. We are very concerned that by exempting food contact substances you or one could possibly exploit that loophole to consider catalyst which is used to make a hydrogenated oil as a food contact substance, it could be possible, and create a hydrogenated oil. Why do I say that? Because hydrogenated oils have already made it into cosmetics, and I have examples here of a hydrogenated castor oil

that is in a cosmetic product that has been certified and labeled as organic. Consumers cannot expect these substances that are synthetic petroleum, and they=re including other things like benzophenone and diazoladynilureas [ph]. I=m going to hand this off to all of you so you can look at it. Incidentally, one of these organically labeled products that is certified is also combustible and labeled as such.

MR. RIDDLE: Time.

MS. RANGAN: I=ll finish up tomorrow.

THE CHAIRMAN: I understand, Marty, waving something behind the speaker does not qualify as submitting a proxy in writing. I=m sorry. Question.

MR. RIDDLE: I was getting a little distracted there towards the end so I didn=t catch just the significance of why you brought these things, so if you=re going to pass them around could you just explain what we should be looking for here that=s alarming to you.

MS. RANGAN: Absolutely. One of the issues area these are loaded with synthetic ingredients, many of which are petroleum derived. The brand name on these products, this is Modern organic products. Organic is in the branch name, and the thing isn=t even mostly

organic, I don=t think. And in this case this label is 56 percent organic. That is complete violation of the labeling regulations. Certified organic. So I=d like you to all take a look at who certified, how it was certified, what is certified, and what is not certified in these products. There is no difference between these and conventional cosmetic products.

THE CHAIRMAN: Thank you. Other questions or comments? Okay. Thank you very much.

MR. RIDDLE: You might want to look at this one.

THE CHAIRMAN: Okay. Leona, and then George was on here but I assume that he wrote down not realizing that he was already on the list, and so we=ll go to...

MR. RIDDLE: You can=t have a proxy for yourself.

THE CHAIRMAN: You can=t be on twice. And then Beth Sears after Leona.

MS. HOODS: You=re getting my detailed comments coming up. I=m just going to quickly go through them. First thank you all once again for your incredibly hard work. I=m Leona Hoods with the National Campaign for Sustainable Agriculture. The National

Campaign for Sustainable Agriculture Organic Committee objects to the NOP=s use of policy statements posted on the Web site as replacements for rule changes and interpretations. This is not only bad practice in terms of final promulgation of law and participation of the public but is in violation of the law. Any action by the NOP that says finding norms cannot be enacted through posting on the Web site, and does require public notice and comment. In several policy statements that NOP put on the Web it made sweeping changes and ignored NOSB recommendations. This has created among other things has created confusion among and between farmers and certifiers and leaves the consumer with no idea of what kind of product they=re actually getting. Despite having made substantive changes to the scope of existing regulations NOP has made no effort to engage in rulemaking and/or public review of their statements. We encourage the NOSB to continue to review standards where applicable and to push for their recommendations to be published as regulations that have gone through public notice and comment. The policy statement regarding foot contact substances places hundreds of new materials on the national list without NOSB review. This is in violation of OFPA=s provision granting and statutory

responsibility to review materials. Furthermore, enacting such a policy statement violates the procedural requirements of the OFPA that does require any proposed changes to the national list go through notice and comment rulemaking. Such action also contravenes historic NOSB policy that holds that both processing aides and ingredients need review and inclusion on the national list. In general, on food contact substances the National Campaign endorses conclusions of the OMRI review of this policy. We reiterate our general concern that that taking such binding, far reaching actions by posting statements on the Web site rather than through public comment and review is a violation of administrative procedure and law. In fact, this public process has been circumvented to be more permissive than current organic industry norms. We see this policy making as a direct threat to the entire organic industry by loosening the standards for less than organic processors to enter the market. Our third general comment concerns the recent practice by the National Organic Program of promulgation of Federal Register notice of rulemaking with a shortened ten-day comment period. The shortened comment period once again seems to circumvent the true public review process, and while

the NOP has been the fore front of Web-based public participation this practice presents several problems. First we=ve always known and can=t forget that there=s a large segment of the population that does not have daily access to the Internet. By using the Internet as the sold method of informing the public rural and under resourced populations have been left out of the process altogether. Where a group such as the National Campaign and many others attempt to mitigate that with public outreach to these organizations the ten-day comment period just makes it impossible. I mean even if you have daily access, the ten-day comment period, you could log on too early one day and too late the next and miss two of those ten days making it an eight-day comment period. It=s just too easy to miss and ten days is not enough. We propose a standard minimum 30-day comment period for all Federal Register notices regarding the NOP, and we encourage the NOP to develop an E-mail list to announce all these Federal Register notices. A list sort of alerting participants to a notice directing them to view the notice on the Web would require little resource allocation at the department. It=s a click of a button and it would encourage public participation. The peer review panel, once again, I always come and

talk about that. The National Campaign Organic Committee reiterates our previous comments to this Board regarding the vital importance of the peer review panel and the process of insuring the integrity of the accreditation program. We=re increasingly concerned that the USDA is abusing its authority by creating loopholes in the enforcement of the organic standards. Finally, on the poultry outdoor access clarification, I think the Humane Society has presented a high bar proposal, and I ask that you review it as the Livestock Committee reviews their detailed clarifications and that then get out to public comment. They are very high bar. Some of it will work and some won=t, but I think it=s a way to clear up some of the problems. From second story porches where birds= feet never touch the ground to open windows and tiny doors to movable pasture pens, that=s a big range. And the consumer, they just feel like the birds are free range, so somewhere there=s a big disconnect.

MR. RIDDLE: Time.

MS. HOODS: All right. I did it.

THE CHAIRMAN: Okay. Questions, comments for Leona? Okay. Thank you, Leona. Okay. Beth Sears, and then Tom Hutchison.

MS. SEARS: Good morning. I=m Beth Sears. I=m the product manager for Microfile Disperse [ph] and I work for Cerex Agri, Inc. I know. It=s a tongue twister. We=re a relatively small global agri chemical company and have been in the crop protection business for over 70 years. I=d like to make a few comments about our product, Microfile Disperse, its importance to organic growers and why it=s difficult for us to reformulate it using a different type of inert, which is a defoamer. Microfile Disperse is an 80 percent dry sulfur. Most sulfurs on the market are usually a 90, 95, 98, almost 99 percent purity used in different parts of agriculture. This product had been used by organic growers for years prior to the national organic standards. I=m not saying that=s a good or bad thing but there=s a lot of confusion out there because first we were, then we weren=t, and now we=re petitioning that hopefully everything will work out that we can be organically accredited again. The formulation is used on over 60 different crops all across the country. It=s primarily used in California, the Pacific Northwest, and that=s where it was used with organic growers in the past. It=s used for mite control and also for powdery mildew, which is probably the number one disease on most

crops in the west. It=s a worker friendly product. There=s little to no dust, and that=s important in today=s times with workers having to be exposed to all different kinds of things. Most of the other sulfurs on the market are wetable powders or dusting sulfurs which are very, very, very dusty. Minimal personal protective equipment is required, again because of the limited amount of dust. It can be used in any spray equipment. A lot of the organic growers are small growers. You may have back pack sprayers. You may have some large growers. It can be used in anything from a back pack sprayer to an orchard sprayer, and also through chemication and even through airplanes. And it is compatible with most everything else that not only an organic grower but any grower uses in their crop protection. It immediately disperses in water, and that=s the beauty of it, and that=s one of the complicated things in trying to reformulate this product. Usually 30 to 50 percent less sulfur is used when using a micronized dry sulfur. And they went into the advantage of that, and I won=t repeat that. But the finally ground particles are a key part of this. It stays in suspension longer, which causes less problems in the spray tank. It also sticks better, so no

additional additives have to be used in the spray tank. You can also increase spray intervals between sprays, therefore using less sulfur or other products on the crop. A few comments on the glycerine oleate, which is the defoaming agent that=s used in this product and which is of concern. It=s made of two esters, glycerin monolith and also a glycerol defoliate. The inert makes only 500ths of a percent in this product. Not 5 percent, not 5/10ths of a percent, 500ths of a percent is in this product of this defaming agent. With mechanical agitation, which is in a lot of different sprayers it aggravates foaming so if you=ve got a product that=s susceptible to foam it=s very important to have a defoamer. It can adversely affect a grower who is trying to fill up a spray tank. The foaming depending on the extent of it can be so bad you can=t even see down in the spray tank and you have a chance of overflowing the spray tank. The foaming also stays on the inside of the spray tank and it can dry, and when it dries -- oh, only a minute left. Oh, man.

MR. RIDDLE: I don=t make the time. I just keep it.

MS. SEARS: I know. But anyway there=s a lot of reasons why this defoamer is important. But a couple

of things why we can=t change the formulation because I think that=s a key. It=s a patented process. We have a plant in Europe is where the product comes from, and the inert -- any inert in this product affects its dispersion and its qualities as a formulation. And this is one inert that is used in such a small amount to do the job, and that was one of the important things in why we had to use this inert. Any change would require a lengthy review of our production process. Field efficacy would have to be reviewed, and also a regulatory review would have to be performed to even change the product. So we hope this small ingredient will be accepted by the National Organics Board and we can therefore give organic growers another alternative in their spray program. And we appreciate being on the program today. Thank you very much.

THE CHAIRMAN: Okay. Thank you very much. Any questions, comments for Beth? If you would hand those to Katherine. That way they won=t get lost in my stack of papers here.

MR. BANDELE: I had one question.

THE CHAIRMAN: Owusu.

MR. BANDELE: You stated that it was made in Europe. Is it used widely in Europe by organic growers

there?

MS. SEARS: Yes, it is accepted by organic growers in the European Union.

MS. CAUGHLAN: You mentioned the percentage of the inert.

MS. SEARS: The percentage of the inert is 500ths of a percent, .05 percent. And it=s made up of the two oleates, and the monooleate you=ve already accepted. So out of that .05 percent probably half of that is the diooleate, which is the other piece of that so it=s even a smaller percentage.

THE CHAIRMAN: First of all, Kevin, and then Rose.

MR. O=RELL: Just to be clear. We haven=t accepted the glycerine monooleate.

MS. SEARS: Oh, okay.

MR. O=RELL: We have a TAP review but we have not accepted it.

MS. SEARS: Oh, okay.

THE CHAIRMAN: Okay. Rose.

MS. KOENIG: I just wanted to know because it=s a list three then 2006 that will move to four or two or one -- two or four. You are aware that it does move to list two. It=s specifically prohibited. It was

not approved in this process but if it became a list two eventually it would be prohibited just to make you aware.

MS. SEARS: No, I was not. I=m not a chemist. I=m in marketing. So I apologize for not knowing that.

THE CHAIRMAN: Okay. Other comments? Okay. Thank you very much. Tom Hutchison, and then, sorry, it didn=t list a name here but Fort Dodge Animal Health. Go ahead.

MR. HUTCHISON: I=m Tom Hutchison with the Organic Trade Association. First I=d like to commend the National Organic Program by proposing to extend the public private partnership by renaming itself the National Organic Trade Association. In interest of consumer confidence and clarity, I think you may want to stay with National Organic Program for the future. And I thank the Board of course for dealing with all of the most difficult complex issues wrestling with them and getting some degree or control over them and giving us some excellent language to work on. I=m going to limit my comments here to just one issue. One of the most confusing issues recently has been the origin of dairy livestock. And I think we can give qualified support for the NOSB position in changing the Roman III to the

Arabic 3, one of the most simple yet complex changes that has been proposed yet. OTA had a role in producing this confusing language so it=s of great interest to us to get it cleared up. And of course we do support strict standards. The only thing that we would urge you to take into consideration is that in making this change it will affect a lot of people if it goes through, and right now we=re not at all sure that the industry is capable of supplying replacement heifers at the rate at which they might be required with this rule change. So we do urge you to take this into consideration, NOP as well. Through any process that effectively provides some kind of a phase-in time for this regulation, whether it=s a long comment period or any combination of what might occur at the administrative end or anything that might be done in terms of phase-in language. We do support strict standards. This is a significant change and would require significant industry adjustment. Thank you very much.

THE CHAIRMAN: Jim.

MR. RIDDLE: I have a comment on that. Two things really. One is it would not be a change for producers who have used the 8020 provision already because they=re already being told they have to use

organic replacements from the last third of gestation so there=s no change there. And what the Board will be voting on at this meeting is a proposal for a rule change, and as such, yeah, the Board makes its vote. Then the NOP is going to run it through their processes and whether it even gets published in the Federal Register or not is a big question. But if it does become a rule change, it would be subject to the notice and comment process published in the Federal Register, so many days public comment before a final rule, so I think those long-term needs are already built in to the process even if it moves on a fast track.

MR. HUTCHISON: Thank you.

THE CHAIRMAN: Any other comments or questions? Okay. Thank you, Tom. The gentleman from Fort Dodge. Then we have David Hiltz. We have four others for this morning, so what we will do is we will continue the public comment until noon. We will break. We will come back after lunch with the NOP update and take it from there. Jim Pierce, who was signed up to give comments today has said that he would defer until tomorrow morning as long as we promised to make him first on the list so.

MR. DEVAN: Good morning. My name is Mark

Devan, and I=m a technical services veterinarian with Fort Dodge Animal Health, and the subject of what I want to talk to you about today is sidectin or moxidectin. You have before you the detailed comments subject to TAP review, and also the contents of the information that=s up here today. I=ll wait till those are before you if Jim will stop the clock.

THE CHAIRMAN: Go ahead. We can multi-task.

MR. DEVAN: You can multi-task. Okay. Some of the comments that were made in the TAP review that we went to respond to are included here. Moxidectin is produced from fermentation. It is produced from an organism naturally occurring in soil. It was discovered in Australia, streptomyces anacrecius [ph] subspecies non-cyanogenus. There are no genetically modified materials or processes used in this production. There is a methoxine side chain added at the C23 position after the process of purification. That is the one step that does make that product in our mind a synthetic product. These are the steps that you can see. The initial fermentation produces nemadectin which is then purified and then the methoxine root is added to produce the material moxidectin. And as I said streptomyces anacrecius is a naturally occurring organism.

Moxidectin is not the same as hybermectin [ph], which is listed on the approved list. Both moxidectin and hybermectin are classified as macrocyclic lactones, however, there are significant chemical structure differences and also molecular weight differences but given significant differences in how they perform metabolically in the animals. The farming co-kinetics are the primary reason for that. I can explain that more in detail if you wish for me to. FDA has approved moxidectin in cattle with zero days withholding for both meat and milk. The zero day withholding period claims based on residue analysis. This analysis predicts that 99 percent of treated cattle will have residues that are well below levels defined by FDA. Hybermectin is not permitted for use in dairy cattle because of residues that are present for an extended period of time. Residues of moxidectin do not affect dung dwelling insects, primarily the dung beetle, and these are very important from the standpoint of manure break down, particularly in intentionally grazed areas. These are important species. There are something like 66 dung dwelling species of insects that can be affected adversely by the compounds but are not significantly affected by moxidectin. One of the questions that was

addressed was the presence in other countries. Moxidectin is permitted for use in the Bioland in Germany. It=s also permitted in the National Trust both in Australia and the UK. Delayed degradation of dung is an issue particularly from the standpoint of run off of affluent in intentionally grazed areas. It=s important for those dung dwelling insects to be there to break down the manure path. It includes the outer penetration of soil. It gets in the soil where it can be used by the root zone. It also improves your ability to utilize the grazing that is present out in the pastures as well. This is just the difference in the chemical structure of the compounds, ivermectin on the left upper. You can see it has a big sugar side chain up there on the top where moxidectin does not have that, and that results in some chemistry and differences in the metabolic rate. And I=m done.

THE CHAIRMAN: All of us who do Power Point projection presentations could learn from that. Any questions?

MS. BURTON: I have one.

THE CHAIRMAN: Okay. Kim. And then Becky.

MS. BURTON: Very nice presentation. My question is if this is a better alternative than

ivermectin has your company considered a petition to remove that from that national list, and do you know that there=s a process to do that?

MR. DEVAN: That would not be our intent. Our intent would be to have moxidectin included.

THE CHAIRMAN: Becky.

MS. GOLDBURG: One of the issues we discussed when we considered moxidectin is that according to our TAP review it=s actually a macolite, and that made technically moxidectin an antibiotics. I=d like to know, A, if moxidectin is approved anywhere in the world for use as an anti-microbial as opposed to a parasiticide, and, B, whether you know if bacteria that develops resistance to moxidectin or whether there=s cross resistance to other macrolide antibiotics like erythromycin or tylosin [ph] from use of moxidectin, and being what=s know about moxidectin=s antibacterial activity period.

MR. DEVAN: Okay. I can answer at least one of those. To my knowledge it is not labeled for use as an anti-macrobial anywhere in the world. I am not aware, although I can, I=m sure, find that information and give it to you as to what its activity is, nor any awareness of what effect it may have on resistance

issues.

THE CHAIRMAN: Jim.

MR. RIDDLE: Are you going to be here the next two days?

MR. DEVAN: I will be here tomorrow until noon.

MR. RIDDLE: Okay. Because then we can have further questions as we review the material.

THE CHAIRMAN: Okay. Thank you. David Hiltz, followed By Leslie Zook [ph].

MR. HILTZ: Thanks to the Board for allowing me to speak this morning. My name is Dave Hiltz. I=m a scientist, and I just wanted to address you this morning regarding the petition to have phosphoric acid included as an pH adjuster for aquatic plants. Some background. The Acadian Sea Plants is the world=s largest manufacturer of marine plants and has been manufacturing aquatic plant extracts for the past 15 years. Now aquatic plant extracts including the Acadian Sea Plant=s product lines have been used in organic agriculture for many years and have been listed as allowed organic ingredients with OMRI since its inception for benefits of these products as effective inputs in sustainable agriculture with no question. But with recent changes

to NOP=s final rule, which came into effect last October now the future use of many of the aquatic plant products in organic agriculture is somewhat in jeopardy. The changes from this rule result in the prohibition of use of synthetic preservatives to stabilize liquid aquatic plant products, and this change effectively eliminates the EPA GRAS preservatives used in the past to stabilize many of these aquatic plant products. Now aquatic plant products are complex mixtures of organic compounds and they=re very susceptible to spoilage at the alkaline pHs that they currently exist at. And with the lack of any effective preservatives available for use in aquatic plant products it becomes very difficult, if not impossible, for companies such as ourselves to manufacture liquid aquatic plant products that will maintain their biological integrity after packaging. Even if the aquatic plant products were pasteurized or sterilized prior to packaging, it may still pose significant problems for end users as the products would then possibly become contaminated once they=re opened, and that would require the user to use the entire container of the product once he had opened it which may or may not be acceptable for their usage. In Acadian Sea Plant=s opinion the only remaining possibility to

insurer microbial stability of the liquid aquatic plant products in the absence of any preservatives is through the adjustment of pH of the products to an acidic level, which would provide an inhospitable environment for most microbial species. Our in-house research program has determined that our aquatic plant products much like the fish products mentioned earlier become microbial stable once they=re concentrated and the pH of the liquid is lowered to somewhere less than 4. And it=s very difficult to utilize any of the organic acids that are currently approved by the NOP such as citric or lactic acids do this because they=re considered what we call weak acids, and due to the high buffering capacity of this organic mixture and also the effect of having a weak acid, you would end up if you used these acids the final product that you would end up would result as more of a solution of just an alkali salt or a salt of the organic acid that you choose to use. For example, if you were using citric acid you=d end up with potassium citrate or lactic acid you=d end up with mainly potassium lactate in your final solution due to the amount that would be required to lower the pH to less than 4. And the minor component of the mixture would then be soluble aquatic plant compounds, which is what

the solution is to begin with. So for this reason Acadian Sea Plants has submitted a petition before you today which requests that phosphoric acid, which is a strong mineral acid be allowed for us as a pH adjuster in aquatic plant products. The use of phosphoric acid as a pH adjuster or stabilizer in natural liquid products is not foreign to the NOP as under item 205.601J7, liquid fish products, these products can be adjusted using phosphoric, sulfuric, or citric acid with the amount used not exceeding the minimum amount required to lower the pH to 3.5. Therefore, Acadian Sea Plants respectively requests that the same exception be granted to the aquatic plant product section of the NOP final rule in order to insure the quality of aquatic plant products continue to be available for use in organic agricultural practices. Thank you.

THE CHAIRMAN: Okay. First of all, Nancy, and then Rose.

MS. OSTIGUY: Two questions. Am I understanding correctly that you are using the phosphoric acid to lower the pH such that it is a preservative?

MR. HILTZ: Yes, in our liquid products, yes.

MS. OSTIGUY: And that the reason why you are

not using the citric or lactic acid is because of the precipitate that you would get with potassium?

MR. HILTZ: No. It=s not a precipitate. It=s just the reason is that in order to lower the pH of the solution to between 3-1/2 and 4 the amount of citric or lactic acid that would be required if you could even get there, in some cases you can=t get there with the weak acids, but if you do get there the final solution will end up with the majority of the product being potassium citrate or potassium lactate, and very little of the organic marine plant extract will still be there. You=ll end up increasing the solid so it minimizes the amount of actual soluble plant product remaining.

MS. OSTIGUY: What proportion using the phosphoric acid becomes potassium phosphate?

MR. HILTZ: What portion? Right off the top of my head, I would guess somewhere in the order of 2 to 3 percent. I=m not entirely sure.

MS. KOENIG: Yeah, that was our question. So following your logic because we didn=t have a TAP review to really -- we=re looking at the phosphoric acid TAP review for processing so following your logic that it becomes potassium citrate, potassium lactic, and then it=s potassium phosphate when you add phosphorus,

correct?

MR. HILTZ: Yes. You make a much lower concentration of it because it=s a strong acid. Again, you don=t need to put anywhere near as much in there at that level whereas the other two acids require huge amounts in some cases.

MS. KOENIG: As far as sulfuric acid like...

MR. HILTZ: We haven=t done any work with sulfuric acid simply because some of the suggestions through some of our plant researches suggest that the sulfates weren=t a desirable thing to have in the final product.

MS. KOENIG: Well, the concern in the application, number 1, you didn=t state that it was a preservative. You were saying that 3.5 was actually beneficial to crops. It was beneficial to cropping systems to be at that pH in your application. Again, we didn=t have a TAP review to back up -- you know, to kind of review that. We found that kind of questionable why you would need a 3.5 pH in a cropping system to be ideal.

MR. HILTZ: I apologize if that=s what it said in the review. Again, I wasn=t that closely involved with the presentation of the petition. That=s not our

intention at all to claim that, I don=t think.

MS. KOENIG: Also, in the petition it said that the potassium and the phosphoric acid would react together to form basically fertilizer like products.

MR. HILTZ: Yes.

MS. KOENIG: So it almost sounds like that the objective is to form a synthetic.

MR. HILTZ: No, no, that=s not the objective at all.

MS. KOENIG: What did you mean by that then? Maybe we misunderstood it.

MR. HILTZ: That=s an undesirable byproduct of what we=re doing but in order to stabilize the product, if we leave the product at the higher pH where we normally finish the alkaline hydrolysis at the product will spoil very rapidly. And if we do not lower the pH some acceptable level then we will end up with a microbial active product.

MS. KOENIG: Do you have any research that shows that because again we don=t have any TAP information, do you have research that shows some kind of scale of how much you have to add because you=re inferring that it=s the same for fish but we heard that these species are different from fish, that there were

other reasons in the old TAP for fish why phosphoric acid was added. Fish and aquatic plants are not the same type of...

MR. HILTZ: No. That=s true, but they are...

MS. KOENIG: Do you have a time course study...

THE CHAIRMAN: Hang on just a second here because I think some of this discussion -- are you going to be around for...

MR. HILTZ: I=ll be here for the next two days.

THE CHAIRMAN: Okay. On some of this discussion on this particular material, why don=t we wait until we get to the materials discussion here, and if you=re available as a resource then we can continue this line of discussion.

MR. HILTZ: Yes, sir.

MR. RIDDLE: I=ll hold my question.

THE CHAIRMAN: Okay. Next up we have Leslie Zook followed by Penny Sandoval.

MS. ZOOK: Hi. I=m Leslie Zook, Executive Director of Pennsylvania Certified Organic. I=m here today actually representing eight accredited certifying agents in the northeast states, including my own

organization, PCO, as well as Vermont Organic Farmers, Maine Organic Farmers and Gardeners Association, Rhode Island Department of Agriculture, Northeast Organic Farming Association of New York, Massachusetts and New Jersey, and Stellar Certification Services Association. These certification agencies have an average of 20 years experience certifying organic farms. Today all together this group of groups certifies 20,000 milking cows and another 20,000 young animals on about 300 dairy operations. Those cows are producing $50 million worth of organic milk and milk products annually. In addition to fluid milk production, the dairy farmers in the northeast are an integral part of the organic process food industry. In PA alone $10 million worth of organic dairy products were produced by family farms last year, including yogurt, cheese, and fluid milk. The statistics for New York, Maine, and Vermont are similar. Incidentally, those numbers do not include New Hampshire where Sunny Field Farms organic yogurt is produced. I=m sure if we included those the numbers would be significantly higher. I=m trying to hurry because this thing keeps shutting off on me. The organic agricultural business necessary to support the organic milk producers are also extensive and include

most importantly organic crop farmers, organic grain mills, seed, fertilizer, and equipment dealers, veterinarians, inspectors, and even certifying agents. I especially wanted to mention the organic crop farms and mills in the northeast. This is a huge industry that simply would not exist if it weren=t for the strength and depth of our organic dairy community. Organic crop production and processing of those organic crops nearly equals the dollar value of the organic dairy industry at over 40 million annually, mostly in the two largest states of Pennsylvania and New York. So this is a $90 million industry that owes its existence and continued stability to each and every organic dairy farmer I was sent here to represent. Those 300 family farmers and the owners of the businesses they sell their milk and crops to sent me here to tell you a few things, some of which I won=t repeat. They sent me here to tell the NOSB and USDA that the organic rule is for the most part a good rule. They believe the rule reflects the only real USDA programs that truly supports the family farm, not by LDPs or other subsidies but by giving honest hard-working farmers an a honest viable way to profit from the incredibly hard work they do. These farmers said to me here is the chance for the USDA

through its National Organic Program to really stand behind their promise to help preserve the family farms in our great country. But now it seems the program has gone out of its way to help large corporate dairy operations by allowing the purchase of non-organic dairy animals on a continuous and ongoing basis while requiring the typical family operated dairy farm raising its own young animals to do so organically in contradiction to the letter and intent of the rule. And the farmers told me this two standards interpretation is obviously going to allow large conventional dairy operations to get their slice of the organic pie that they would not otherwise consider organic production to be cost effective. Don=t get us wrong. We=re not opposed to expansion of the organic dairy industry but the farmer told me please point out to the USDA that the healthy growth our industry has experienced over the eight years will not continue under these discriminatory circumstances. The big will get bigger and the rest of us will get jobs at Wal Mart. So what=s the solution? They said we in the northeast would support a simple rule change requiring that once organic milk production has begun all animals must be managed organically from the last third of gestation. And I have a letter from a

consumer also to read to you. Organic farmers truly believe in what they do. They work extremely hard to follow the rule and manage their farms for the health of their families, livestock, and consumers of their product.

MR. RIDDLE: Time.

THE CHAIRMAN: Okay. Thank you, Leslie. Comments. Jim.

MR. RIDDLE: I=m impressed by how many people you=re speaking for here, and is there any other very succinct message that they wanted to convey that you can repeat? You don=t have to create one. If you had something on the tip of your tongue that we needed to hear.

MS. ZOOK: They would -- yeah. They would support any standard that is fair to everybody.

MR. RIDDLE: Okay.

MS. ZOOK: That=s the main thing. They are not opposed to a one-year transition for all animals whether raised on the farm or raised off the farm or brought onto the farm or purchased or not purchased. They would prefer the standard that we have been following for the last 20 years or eight years, which in the northeast they are replacing their dairy animals

with organic animals from last third of gestation. They have been doing that, so that=s the message.

MR. RIDDLE: Thanks.

THE CHAIRMAN: Thank you, Leslie. Okay. Next up is Penny Sandoval, followed by David Ingle. Then we have Marty Mesh, and then I will read the last one into the record here.

MS. SANDOVAL: Good morning. My name is Penny Sandoval, and I=m actually reading this comment for the Northeast Dairy Producers Alliance. The final rule of the National Organic Program carries contradictory wording on the origin of dairy livestock. The question has become Section 205.236(a)(2), which states that milk or milk products must be from animals that have been under continuous organic management beginning no later than one year prior to the production of the milk or milk products that are to be sold, labeled, or represented as organic mean that once organic dairy farms can bring new animals up to yearling age onto the farm that are conventionally raised. The rule also states that once an entire distinct herd has been converted to organic production all dairy animals shall be under organic management from the last third of gestation. How could this contradiction have come

about? In looking back at the second draft of the rule, and in carefully reading the preamble of the final rule one can gain clarity on the change that occurred and understand what the final rule was intended to say although some of the formal formatting did not quite make it explicit. The second draft is quite different from the final rule on origin of livestock. The draft 205.2366A states that livestock or edible livestock products that are to be sold, labeled or represented as organic must be from livestock under continuous organic management from birth or hatching. And it then goes on to accept poultry up to the second day of life, dairy animals up to one year prior to production of milk and livestock for the production of non-edible livestock products up to one year of life. The preamble to the final rule discusses the fact that many commenters felt that the full year organic feed requirement created an insurmountable barrier for small and medium size dairy operations wishing to convert to organic production, that it was economically prohibitive and that existing new entry and whole herd conversion provisions in existing certification standards have been instrumental in enabling established non-organic dairies to make the transition to organic production and that many current

diaries have capitalized on this whole herd conversion provision and that the consistent growth and demand for organic milk and milk products reflects consumer acceptance of the principal. The preamble also cited the June, 2000 NOSB recommendation that required that dairy animals brought onto an organic dairy must be organically raised from the last third of gestation. The preamble goes on to state that the final rule contains a provision for whole herd conversion that closely resembles those found in the NOSB recommendation and the existing certification standards. The final rule requires that an entire distinct area must be under organic management for one year prior to the production of milk, then the allowance of 80 percent organic or home raised feed for the first nine months of that year is laid out in the preamble. Following that it says after the dairy operation has been certified animals brought onto the operation must be organically raised from the last third of gestation. We did not incorporate the NOSB=s recommendation to provide young stock with non-organic feed up to 12 months prior to the production of certified milk. By creating an ongoing allowance for using non-organic feed on a certified operation this provision would have undermined the

principle that a whole herd conversion is a distinct one time event. Another major difference between the second draft and the final rule is that the livestock conversion period of one year for non-edible products written in the second draft was deleted from the final rule. The preamble states that we have changed this provision in the final rule to require that non-edible products be produced from livestock that has been organically managed from the last third of gestation. Based on the rule writer=s recognition that the creation of a separate original livestock requirement for animals intended for non-edible products could be confusing, thus, it is crystal clear that the intent of the rule writers was to have one standard origin of livestock with the exception of chicks and the exception of a one-time herd conversion for non-organic dairy herds to become organic. Once a dairy operation is organic then all replacement stock whether farm raised or purchased is to be organic from the last third of gestation. The conversion provision cannot be used routinely to bring non-organically raised animals into an organic operation. The confusion in the dairy origin standard comes about because of the way the final rule was formatted. The lack of clarity and confusion with the

way the rule is formatted can be fixed by a simple technical correction making Section 205.236(a)(2)(iii) a separate paragraph rather than III under the herd conversion exemption as it was formatted in the final rule. Doing so would remove the ambiguity and honor the preamble=s stated intent that once a dairy herd is organic then all replacements must be organic from the last third of gestation.

MR. RIDDLE: Time.

THE CHAIRMAN: All right. Thank you, Penny. Questions, comments? Okay. Thank you. David Ingle, followed by Marty Mesh, and then is there anyone here who was signed up to testify that wasn=t in the room when your -- okay. Go ahead, David.

MR. INGLE: Good morning. My name is David Ingle. I=m a dairy farmer for 22 years, organic dairy farmer, along with my wife although she would like to maybe not be much of a dairy farmer. I=m also the founding member or a founding member of the Organic Valley Dairy Group, and I=m the executive director of the Midwest Organic Service Association. I very much appreciate this opportunity for us to be together again to work together on organic community issues and materials of course. The organic community that we

represent is a very bright spot in the world scene today. Mr. Riva=s presentation showed that. Many of us in this room individually work with thousands of other folks for whom organics is their direction in life and they in turn are part of a even wider and ever widening segment of our culture and society and of cultures and societies worldwide. There=s a verse which epitomizes this fashion of commitment. But if for just one time we would farm this land organic and see the hand of how we=re reaching for the horizon. It would be so fine there would not be all this panic in sweat and mud with tears and blood. This truth we set our eyes on. We all know this. We all know how important the soil is, how important livestock are in the scheme of things, and how important it is for us and how blessed it is for us to be a part of a larger effort that Howard was a part of starting. So when we disagree on issues, for example, the dairy replacement issue, we need to have tools and systems to use to help us through the problems and issues and disagreements. Again, Mr. Rivas= presentation gave an excellent overview of the accreditation and quality systems and audits all of which are tools we must use. My main concern right now as an administrator of a USDA accredited agency is the

development, it seems, of a kind of a polarization between the NOP and many of us in the organic certification community over how the standards are to be interpreted. The dairy replacement issue I mentioned is one. Access to outdoors for poultry, which has been mentioned here, is presently at some sort of level of legal regulatory contention. That=s another one. It=s a whole materials game with which the NOSB is primarily involved is still in my opinion either a train wreck waiting to happen or happening, and Mr. Harding addressed that earlier today. Thankfully, the less than 100 percent feed issue got taken care of though now we are faced with the wild harvest of fish issue. Right now the NOP has interpreted the dairy replacement issue and the access to outdoors issue very much differently than the overwhelming majority of the organic certification community. We need to work these items out and in doing so uphold and insure the three main principles of the OFPA, and the expectations of the consumers which we=ve heard about today. And as Mr. Cummins and Ervashi and the consumer representative, I don=t remember her name, so well pointed out. And like Mr. Cummins, I think we can do it. I certainly hope that we don=t have to end up in court or have to go to

the Congress to change the law or rule but these are tools that we have in our system to use. It would be best to have forums and tools such as the NOSB and their committees, and as has been so well pointed out today posting of issues with public comment, and then for the NOP to provide an accurate reflection of these wishes as they carry out their ultimate responsibility of standards interpretation. Good luck with everything, and thank you again.

THE CHAIRMAN: Thank you, David. Comments, questions? Okay. Well, then it looks like we have Marty Mesh, and then Cindy Salter.

MR. RIDDLE: Another written one?

THE CHAIRMAN: Oh, yeah, that=s just written. You=re right. Cindy is just written. You=re right. Thank you, Emily. Okay. So Marty, you=re the clean up if Jim is still agreeable to going tomorrow. Works for you. Okay. Then I will read one into the comments.

MR. MESH: The best till the last.

THE CHAIRMAN: Absolutely.

MR. MESH: Marty Mesh. We try to represent consumers and now the position on the board is filled by Andrea. And which may lack fulfilling consumer representation, I=m more than happy to hereby delegate

my time to the Consumers Union so she can finish.

THE CHAIRMAN: Go ahead, Andrea.

MS. CAROE: We have information that I hope the environmental representatives...

MR. MESH: Again, I think from the consumer representation point of view.

THE CHAIRMAN: Okay. So you=re bequeathing your time to Ervashi, so go ahead. Yes.

MS. RANGAN: I very much appreciate that. Thanks. I=d just like to maybe talk a little bit more about the labeling of organic cosmetics and what an egregious act this is seeing products that are labeled 56 percent organic. As we all know in this room, any product that contains less than 70 percent organic ingredients is not considered to be an organic product and should not be labeled as such. But moreover if you go into whole foods you=ll see a whole panel of organic cosmetics labeled 70 percent organic or even 72 percent organic. The problem with this again is that it violates the labeling regulations, which says that if it=s 70 to 95 percent organic it is only allowed to be labeled as made with organic ingredients, not a nice decal that says 72 percent organic. And so that definitely needs to be addressed. Labeling enforcement

is a primary concern for Consumers Union, and I want to bring up another act of egregious labeling that we already are starting to see out there. Groger=s is about to issue a new label called the Naturally Preferred label. This label will mean that all products that carry the Groger=s Naturally Preferred label will either exceed the National Organic Program standards or exceed the standards for natural on food of which there are none. This is a serious co-opting of the organic label that we want to bring to your attention to make sure that no one is able to take the organic label and dilute the meaning and integrity of it. Do I have more time?

THE CHAIRMAN: Yeah.

MS. RANGAN: Great. I=d like to just touch on fish for a minute, which no one has talked about but this is a very interesting rider that got attached to the bill, which was repealing the previous rider from the previous appropriations bill which has to do with the labeling of wild seafood. Consumers Union strongly urges this Board to take this up as a serious matter in the sense that organic sea food could now be labeled organic that would still carry a mercury advisory from the FDA to women of child bearing age and those who are

pregnant to not eat more than 12 ounces of fish per week. It doesn=t do consumers a service to label something as organic which may be contaminated with mercury and PCBs. And so we urge you to please re-evaluate the product area before allowing wild seafood to be labeled as organic. I=ll talk more tomorrow.

THE CHAIRMAN: Okay. Kim.

MS. BURTON: Just regarding the cosmetics because I play a separate role. I=m working with OTA on the cosmetic committee aside from my role on the NOSB, and I wrote a document and passed it by Ray Green of California regarding California labeling, so I just want you to know that California does have a cosmetic statute, and most of the labeling that you=re passing around is following under the guidelines of the California law, and it=s approved. So just so you know, and I can share that with you...

MS. RANGAN: So that means California approves 56 percent organic?

MS. BURTON: That one is not approved but they have the balance of 30 percent ingredients do not have to appear on the national list of ingredients to be labeled.

MS. RANGAN: But it still needs to be labeled

as made with organic ingredients, not 72 percent organic on the front.

MS. BURTON: Well, it=s definitely an unclear area. I wrote a document. I=ll be happy to share it with you.

MS. RANGAN: Yeah, I=d appreciate it.

MS. BURTON: And Ray Green and I worked on it together so it has California=s viewpoints along with my interpretation of how the USDA pertains to labeling of cosmetics.

THE CHAIRMAN: Okay. Jim and then Rose.

MR. RIDDLE: The organic regulation, federal regulation, prohibits the inclusion of added water or salt in the calculation, and there is a policy statement that clarifies that, so something like soy milk which contains a lot of added water. That added water cannot be included in the calculation. It=s based on the weight of the soy beans and other ingredients. And it seems that some of these cosmetic products are including water in the calculation, and could you just comment on that?

MS. RANGAN: Sure, and I think Ronnie has also brought this up. They follow it as far as if it=s just water added to the product you cannot include it in the

calculation of the percentage of the organic ingredients. The loophole that=s being created in this industry are hydrosols where you can take a little bit of organic mint and boil it in a whole lot of water and that product becomes one ingredient where the whole weight of that water is now considered to be an organic ingredient. You can get to a 70 percent organic personal care product pretty quickly by boiling a little bit of mint in water.

THE CHAIRMAN: Okay. Rose.

MS. KOENIG: I guess it=s the same question that was asked before. Have you brought forth or has any of the consumer groups brought forth these as a compliance issue with USDA?

MS. RANGAN: This is the first -- I spent several hours in whole foods last week going through those products myself to find out what was going on. We=re in the process of doing that. This is the first I=ve brought it up in a formal form.

MS. KOENIG: Yeah. I think that everyone acknowledges -- I think the best advice is really to go through that compliance -- put forth...

MS. RANGAN: I agree, Rose. I guess the problem is that in October they stated in the scope

statement that it was going to be included in the scope. We had serious concerns at that time as to how all the non-agricultural ingredients in a cosmetic, which people don=t eat, were going to be approved. And going to the market and seeing the organic label is a surprise to begin with, and when I turned to the back of the ingredients and found basically I don=t think anything is really prohibited in there as far as synthetics or pesticides derived ingredients. It=s not in keeping with what organic is, and it will undermine consumer confidence in organic labeling.

THE CHAIRMAN: Okay. Thank you. Andrea.

MS. CAROE: Just really quickly. The way I understand the present scope document and how it applies to these non-food products is the fact that they=re using organic agricultural ingredients, and the ingredient deck where it represents an agricultural product as organic those ingredients must be organic to the rule. So if it says organic lavender on the ingredient deck, it better be certified organic lavender to a USDA accredited certifier.

MS. RANGAN: I would agree at the very least that=s what it should be but the problem is there=s so much more going on in those products it gets beyond just

having certified organic agricultural ingredients.

MS. CAROE: I would agree, and I think the principal labeling concerns become more than an USDA jurisdiction.

THE CHAIRMAN: And just as a point of information because I know we got some other hands up here, but we really don=t have the cosmetic issue or the personal care issue on the agenda for this meeting, so I=m going to cut off the questions here though. We=ll have some discussion off line, and this is certainly an issue that will be coming forward in some manner. So I appreciate it. Let me just finish up here with one comment to be read into the record from Nofa [ph], New York. For the record, this is from Lisa Englebert and Carol King. For the record, Nofa, New York, Certified Organic LLC would like to report on our certified organic poultry farms. We currently certify 14 poultry operations. All operations are meeting the outdoor access requirement. Last year one operation that had been granted conditional certification based on the commitment to build meaningful outdoor access was granted an extension to comply based on plans and construction schedules. They were given until April 1, 2003 to implement outdoor access for birds. The plan

was completed prior to the deadline and they are now in full compliance with the outdoor access standard. Modifications including discounting second story houses and creating substantial yards for multiple houses. Outdoor access is a key component of organic poultry management as well as consumer understanding of organic poultry, meats, and eggs. It is very important to maintain an enforcement standard. The standard allows the birds the option of being outside, which is conducive to a less crowded, more natural environment. Thank you for your time. Lisa Englebert and Carol King.

MR. RIDDLE: And we do have one other written.

THE CHAIRMAN: Okay. I feel like a bill reader in the state legislature. This is a comment then that was submitted. This was signed up from Cindy Salter, Executive Director of the Compost Tea Industry Association.

MR. RIDDLE: Let=s do it tomorrow. She wouldn=t object.

THE CHAIRMAN: She wouldn=t object to doing it tomorrow. We will do this one tomorrow after Jim Pierce. Okay. We=re at the end of the public comment. Okay. Let=s do that because it is now 12:15. What we will do at this point is we=re going to take a 45-minute

lunch break. We will be back here promptly at 1:00 for the NOP update.

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[Off the record]

[On the record]

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THE CHAIRMAN: We will reconvene the meeting and call upon Barbara Robinson and/or Richard Matthews to give us an updated NOP.

MS. ROBINSON: Thank you, Mr. Chair. Rick will be back and we=re going to do a tag team on the NOP update. I would like to say first to the Chair, to the Board, as well as to the industry that is here today that I hope that you appreciated Jim Riva=s presentation. He is exceptionally thorough in his job. The entire agency, the Ag Marketing Service, has full confidence in Jim Riva=s group. As you can tell, I believe by the breadth and number of programs that they do provide these certifications, these quality review systems for, so we were very pleased when Jim=s group said that they would be willing to take on accreditation for us. And so hopefully you=ll see why we had that kind of confidence in them. As far as update, first of all, on minor -- not minor things but there are a number

of things that you=ll see on the Web site for updates as far as most recent numbers of applications or accreditation and those sorts of things. Rick will also bring you up to speed on where the dockets are with respect to the materials. And I=m going to talk about a couple of things, both are congressional in nature, and that is although the Board is probably well aware of this and maybe people in the public are not, and that=s just to bring you up to speed on where we are with a couple of things. First is the feed grain study. As you all know, in the farm bill that was passed last year. The manager=s report contains language urging the Secretary to immediately undertake a study to ascertain the availability of feed grains for livestock producers who wish to become organic livestock and poultry producers. And that was fine. We had already as a result of inquiries from some congressmen, we had already begun to undertake surveys with four cooperators around the country at universities to kind of carve up the U.S. into regions and survey producers and grain buyers to find out what were their planting intentions for the upcoming seasons. After the manager=s report language was inserted in the farm bill. We went a little more aggressively and then a little more detail

the questions that we asked the cooperators to pose to growers. Then as you well know in the Omnibus Appropriations Act that was passed this spring the so-called writer managed to be inserted at the 12th hour that essentially said that USDA was barred from enforcing the 100 percent organic livestock feed provision unless both the study that was already being done from the farm bill could show that not only was there sufficient feed available for livestock producers but that the price of organic feed was not more than twice the price of conventional feed. So that slowed us down just a bit because it meant that even though we were already beginning to look at prices, it meant that we really had to get even a little more aggressive and go out and talk with folks and get price quotes. We have done that. And I just submitted the study about a week ago, and let me tell you where that is. In the meantime, of course, Mr. Leahy managed to repeal that rider when Congress deliberated on the supplemental to fund Operation Iraqi Freedom and so the enforcement rider went away. In the agency we discussed this and we decided not to amend the study. That is, we did not take out the price data that is in the study. Our argument is that there=s absolutely nothing to hide.

It=s valid information that should remain in the study, and so that=s the way it is. I am still doing some last minute checking on some of the numbers throughout the study to make sure that everything is clearly portrayed and accurately presented. But there is a farm bill implementation team in the department. It=s made up of the Office of the Chief Economist, the Office of Budget and Planning Analysis, the respective or appropriate under secretaries for every mission area, and so that team has to vet any studies that were prompted as a result of the farm bill or any actions before it can be released from the department and sent to Congress, and that=s why I can=t sit here and tell you all the great results that are in the study today because it hasn=t left the department yet through the clearance process. As soon as it does, and I am hopeful that it will do so this spring, then it will become a public document. We will probably simply advance a copy in our appropriate letter, send it to the Board, send it to the Chair, and we will also although we haven=t made this determination, I don=t see any reason why we wouldn=t just post it on our Web site. So that=s the situation with the feed study. We have met with the congressmen, the delegation of Georgia. I accompanied senior

officials in the agency and senior policy officials in the Administration, and we went up to visit with the Georgia delegation at their request earlier this spring to discuss their issues on behalf of their constituents. And so we did, and we met for about an hour and a half. It was a cordial meeting. The Food Safety and Inspection Service also accompanied the Ag Marketing Service because as you know it=s Food Safety and Inspection Service=s jurisdiction to approve the labels that are put on meat and poultry. So there=s an old saying it=s not over till it=s over, and if there=s one lesson I guess I=ve learned out of this experience it=s not over. So we don=t know what will come next. We don=t know what anyone will attempt to do. Nobody does. And we don=t have any intentions of changing our method of operation or forging ahead as if this issue had never arisen in the first place. In addition to the supplemental repeal of the rider in the supplemental as most of you know a little additional amendment was tacked on by Senator Stevens directing USDA to begin to develop standards for wild crop seafood. And I can tell you that nothing has been done in the program or in the agency on this amendment for very good and very obvious reasons, and that is frankly that given our resource

constraints and our priorities it simply has not taken this issue up. Nor do I have any really good time table or any good information to share with you to say when we will get to that. Rest assured that the minute we do whatever we do will go on the Web and it will be a full public conversation that we have on the matter. I do have old files that are a compendium of this Board=s recommendations with regard to agriculture and wild crop seafood. We do have a history, and my inclination is to at least begin by going back and reviewing the history that=s already been done. But again I haven=t got any definite plans. What you=re hearing is just my thoughts about what we would do. The staff has not even sat down and had a conversation about what we=re going to do on wild crop. Now the last thing that I want to bring up, and then I=m going to use it as a segway and to Rick is the peer review panel. I guess we probably don=t make it through a month without at least one inquiry as to where we are in a peer review panel. And as you know, we have said repeatedly that we have every intention of creating a peer review panel. Our reasons for not having done so have been fairly simple and straightforward. One was resources and the second is time with respect to the numerous other priorities that

we faced in getting the program up and implemented on time on October 21, 2002. However, we also know that that=s one of the issues that=s kind of been sitting there on our shoulders, our left shoulder, saying me next, me next, me next. Over the course of the last month we continue to have discussions about this and the agency has made a determination of how to address the issue of the peer review panel, and Rick is going to talk to you more about that. I will say at this point we=re simply awaiting the final review by our legal counsel, and then we think that we will have solved this problem for those of you who have been wondering where is the peer review panel. So with that, I=ll turn it over to Rick.

MR. MATTHEWS: Thank you, Barbara. And for the record, I=m Richard Matthews, Program Manager of the National Organic Program. I guess I=ll start right in with the peer review. As each of you know, accreditation is currently performed by the Audit Review and Compliance Branch of the livestock and feed division, Agricultural Marketing Services. You had the good fortune this morning of meeting with Jim Riva, who is the head of that branch. This arrangement is codified through a Memorandum of Understanding between

the ARC branch and the National Organic Program. We have now worked out a program for peer review, which will include an agreement between the National Organic Program and the American National Standards Institute, which I will from hence forth refer to as ANSI. ANSI is tasked with performing an assessment using ISO guide 61, general requirements for assessment and accreditation of certification registration bodies to satisfy the requirements of 7 USC 6516, and its implementing regulations meaning 7 C.F.R. 205.509. In addition to the ISO guide 61, ANSI assessment method will utilize the following documents, ISO 19011, guidelines for quality and/or environmental management system of audit, and International Accreditation Federation policies and procedures for a multi-lateral recognition arrangement on the level of accreditation bodies, and on the level of regional groups. The team will consist of three individuals. One will be a lead assessor schooled in ISO 61. There will be a second assessor also an expert in ISO 61 and we will be going out for nominations from the public for the nomination of an individual to serve as a technical expert on that panel. ANSI will deliver a completed assessment report to the program manager. I want to give you some information about the unique

qualifications of ANSI. The American National Standards Institute promotes the use of U.S. standards internationally, advocates U.S. policy and technical positions in international and regional standards, organizations, and encourages the adoption of international standards as national standards where these meet the needs of the user community. ANSI is the sole U.S. representative and dues paying member of the two major non-treating international standards organizations. The international organization for standards is ISO, and via the U.S. National Committee the International Electro-Technical Commission. ANSI=s ACP, which is Accreditation Certification Program, was established to provide government and industry with confidence in the competence of third party product and personnel certification programs. ANSI=s program is designed to be independent and objective, provide federal, state, and local regulatory agencies with a mechanism that identifies competent product certification organizations, create a level playing field for certification organizations, meet user needs for accreditation, harmonize domestic and international conformity assessment activities, and to be a tool for continual improvement. ANSI is a member of the

International Accreditation Forum, and the sole U.S. accrediting body for product and personnel certifiers in this international forum. At the regional level ANSI is a member of the Inner American Accreditation Corporation and also a Pacific accreditation cooperation. ANSI Registrar Accreditation Board National Accreditation Program is a U.S. signatory to the IAF multi-lateral recognition arrangement for quality and environmental management system. Since June, 2000 National Institute for Standards and Technology National Voluntary Conformity Assessment System Evaluation Program, that=s the NIST evaluation program, has recognized ANSI as an accreditation body for telecommunication certification bodies in accordance with ISO guide 61, and the administrative requirements for the Federal Communications Commission. ANSI has accredited 36 product certification programs for a variety of scopes and two personnel certification bodies in the U.S. and abroad. The second issue that I want to address is the issue of the national list. We do, as you know, have one docket that has already been published. It is intentionally not covering all products that have been recommended by the Board, or materials, I should say. It=s primarily a crops docket with technical corrections

for processing. That was laid out in the preamble. We have a docket, which we anticipate will be published if not by the end of next week shortly thereafter. That docket is for materials that will be added to Section 605. There=s another docket that is on my desk for livestock materials. When I get back from my two weeks on the road, I will be going through that and that will get finalized and sent off to the attorneys, and that one will come out shortly after the second one. We=re doing this as a series of dockets because as the Board know there have been some problems with some of the materials. What is delaying process product materials and livestock materials is the fact that we have gone to the Food and Drug Administration for approval before we go out to the public for comment. The third area is in the area of decision making. We have created, as the Board knows, a decision tree which is entitled decision-making procedures for the National Organics Program. We want to make sure that the process that we follow in making decisions back at the NOP, both policy statements and rulemaking actions are transparent to the public as well as to the Board. For that reason we have put our process in writing. This document, the Board has it. They received it yesterday. The public will receive it

right after this presentation. We=ll be putting it on the table in the back of the room. Everyone is welcome to get themselves a copy. If we run out, let us know and we=ll get some more made. This decision tree really forms the basis for two different kinds of decisions, those that are rulemaking in nature and are subject to the Administrative Procedures Act, and those which are policy statements and interpretations of the regulations, which are not subject to the Administrative Procedures Act. You=re all familiar with the routine for amending the regulations. We get a proposal, we write a docket, it goes up for public comments. Once the comments come in then we finalize it and that=s when whatever action is recommended becomes a part of the standards. The second area is in the area of policies, and what we have done is we have created an interim final rule that will address the process of developing guidance, good guidance practices. The intended effect of this regulation is to make the National Organic Program=s procedures for development, issuance, and use of guidance documents clear to the public. There will be a 30-day comment period on this interim final rule. The comments that we received will be posted on our Web site. Now I want to briefly go through some of the

issues that are going to be addressed through this action. What we=re going to do is we=re going to add a new section 205.630 titled Good Guidance Practices to the regulations. The issues that will be addressed in this new section of the regulations are as follows. What are good guidance practices? What is a guidance document? What other terms have special means? We=ll h have a definition section. Are you or NOP required -- and when I say you that=s for the reader of the document. Are you or NOP required to follow guidance documents? Can NOP use means other than a guidance document to communicate new program policy or a new regulatory approach to a broad public audience, how can you participate in the development and issuance of guidance documents? What are NOP=s procedures for developing and issuing guidance documents? How should you submit comments on the guidance document? What standard elements must NOP include in a guidance document? Who within NOP can approve issuance of guidance documents? How will NOP review and revise existing guidance documents? How will NOP insure that NOP staff is following these good guidance practices? How can you get a copy of NOP=s guidance documents? How will NOP keep you informed of the guidance documents

that are available? What can you do if you believe that someone at NOP is not following these good guidance practices? I=d like to say that the issue of contact substances will be the very first of the issues before us put through the good guidance practices procedure that we are now getting ready to implement. And that concludes the USDA report to the National Organic Program.

THE CHAIRMAN: Okay. Thank you, Richard and Barbara, and just for the audience, at the request -- we talked about this yesterday. At the request of NOP, we=re not going to have discussion with the Board on those points. A lot of the things that they brought up will be coming up later on in the agenda through the accreditation committee or whatever. You will have some discussion on the points that they brought up. Not really, through the committee, but when we get to the parts of the agenda. With that, we were going to then move into our presentation of committee discussion items. And again according to our procedures here we talk about the materials items today. Later on this afternoon we will have discussion today, and then action on those items tomorrow so with that, I=m going to turn it over to Kim Burton, the Chairperson of the materials

committee.

MS. BURTON: A little bit of a different presentation than I=ve done in the past at NOSB meetings. I=ve done overheads. This presentation that I put together was actually for the eco farm conference and since none of the information has changed since January I=m just going to go ahead and go through the same procedure. Some of this is -- obviously a lot of it is redundant and some of it many of you know but for those in the audience who don=t know how the national list works I will go ahead and explain that to you. In the presentation I=m going to go through the national list of allowed and prohibited substances by section. I=m going to give you a national list update on the materials, describe to you upcoming materials to be voted on by the Board, go through the material review process, and then also the process for amending the national list. For crops we have Section 205.601, and Section 205.602. I=m not going to spend a lot of time on those because most of you should be familiar with the sections of the national list. For livestock we have Section 205.603 and Section 205.604. For processing, or now handling as we call it, 205.605 and Section 205.606. As Richard had spoke of earlier, we did have a Federal

Register docket placed on April 16 that included recommendations by this Board for crop materials only, and technical corrections on the national list that had been identified as materials that were on the original proposed rule and not the final rule. And then again we had the final rule on October 21, 2000 come out, and from a materials standpoint that rule contained all NOSB recommendations from 1995 to the publication of the rule in 2000. The technical corrections that came from the Board for processing, we have three materials, agar-agar, carrageenan, and tartaric acid. And for crops we have the sodium chloride with annotations. And I believe all of those did get on the technical corrections docket. This slide the Board has not seen so it might be interesting to know what we=ve done since 2000 on materials. For crops we=ve reviewed a total of 13 materials. Under Section 205.601 we recommended that four materials be allowed, and one material under Section 205.602. We deemed one material non-synthetic, we changed the annotation on one material, and we prohibited six materials for crops. For livestock we=ve reviewed a total of 24 materials, 15 of which were recommended for 205.603, one under 205.604. Two were deemed non-synthetic and therefore allowed. We deferred

five materials, which we will be reviewing at this meeting. And we prohibited one material. For processing we reviewed 16 materials, ten of which were recommended to go on 205.605, two for 205.606. We deemed two non-synthetic agriculture materials. We had one petition in TAP that was withdrawn because we did find alternatives available, and we prohibited one material. The materials that we=ll have at this meeting, we have a total of 15 materials to review in record time, one day. You thought you had fun so far. The tetrahydrofurfuryl alcohol, and I want to make a comment while we=re on this material because we were talking about it before lunch -- or right after lunch. This material, obviously we=ve had some discussion on public input, this material was on the September agenda and on the October agenda, and we did not review it because we didn=t have the TAP report, so just in a little bit of -- it hasn=t been the Board=s -- I guess it hasn=t been our fault that this petition hasn=t been reviewed. It=s been more of an issue with the timing from the contractor in trying to get that TAP report to us. So we sympathize with the petitioner. It=s been probably one of the worst in my history that I know of trying to get this on the agenda, but it is on for this

week. Potassium silicate, phosphoric acid, and glycerine oleate are the crop materials. Questions? Okay. Livestock, these were all -- well, four of the five were deferred, is that right, or they all were deferred. All of them were deferred. I=m sorry. The proteinated chelates, calcium propionate, furosemide, mineral oil, and atropine.

MR. RIDDLE: Kim, and then there=s some confusion about flunixin and it=s still in the mix.

MS. BURTON: Yes. Yes. Actually, yeah, that one, it went by me. That was deferred from the last meeting and we do have a supplemental report that=s been completed and finished, and we=ll add that to our next meeting agenda. Processing, egg white lysozyme, if I said that right, nitrous oxide, malic acid, sodium acid pyrophosphate, and microorganisms or cultures. I had mentioned earlier in the day that we had received three petitions, and actually I believe we=ve got a new one that had just come in but these are the materials that we had received petitions for. I will comment that these were all received in the January time frame, and I haven=t received another petition since that time so the petitions are actually slowing down as people have all the materials they=ve got. I doubt that. So we=ve got

at least four for the next meeting plus the livestock material. Okay. As the Board and with the NOP we have been discussing the material review process because like anything it=s an ongoing process that needs improvement. We=ve been learning the hard way. We appreciate everybody=s patience and especially from the Board. I know that it=s not a perfect process but we=ve all done the best that we can with it. And as we go along hopefully when we transition our positions to new people, we will have the material review process down to overnight going through the growing pains that this Board has to go through with it. This process that you see in here is one that we have put together. I think that we need as a Board to make this process work. The minimum time frame for national list material review is 145 days. When a petition comes in what we have requested is that NOP receives that petition. They review it to make sure that the petition is complete. Within two weeks or 14 days they forward that petition to the Chair of the Materials Committee. Okay. This next slide has been changed a little bit from our discussions as of yesterday that once I receive a copy of the petition we now have co-chairpersons designated NOSB committees, and Dave had alluded to that earlier

that we=re now going to kind of share the wealth, so to speak, on the process and have one person from each committee as kind of that stakeholder on making sure the material review process happens timely, accurately, and whatever else we need to do. So a copy of the petition will go to each of those co-chairs, and their responsibility is to take that back to their committee and evaluate that petition to decide whether or not it needs to be forwarded for TAP review. So a little bit of change from how it=s happened in the past. The material review process, we=re arguing over this magic cut off time or what we need to do, the minimum time frame that we have to have TAPs back to the Board before a meeting. We will have a cut off date, so just to warn those in the audience that there is going to be a date at which we just simply cannot accept a TAP prior to a meeting. What we have done this last meeting and the few before that is get TAPs at the very last minute and although we feel a tremendous obligation to the industry to get those out often times materials are deferred because we just don=t have enough time to put into it to do an adequate review and recommendation by this Board. And I=m sure you will see some of that in the next couple of days. So we will establish a cut off date.

If it=s not received to this Board by that date, sorry, folks, it=s going to go to the next meeting and that=s just the way it is. Within that same time frame TAP reviews are sent to the NOSB. The TAP reviews are posted on the Web site within a specific time frame for review and public comment. And this is just the Web site to request the petition or you can download the petition. Any questions or comments because we can certainly take them. Jim.

THE CHAIRMAN: If you=re going to ask a question, will you please come to the mike so we can get...

MR. PIERCE: Just real quick. What are the criteria for...

THE CHAIRMAN: No, please come to the mike. We have to have a record.

MR. RIDDLE: And identify yourself.

MR. PIERCE: I=m Jim Pierce from Organic Valley. I=m wondering what the criteria for the chairman of the committee to forward a petition for a TAP are, what are they basing those criteria on?

MS. BURTON: Well, so far the criteria has just been that all the information in a petition is accurate. To actually forward it, we have no criteria.

Once it gets to the Chair then we go through the OFPA criteria to make sure that it is one that can be forwarded. In other words, it meets the OFPA criteria.

MR. PIERCE: Okay. So there is a screening process.

MS. BURTON: Yes.

MR. PIERCE: The other question is can a member of the NOSB request a TAP without a petition or can a committee request a TAP, and I=m thinking about this fish deal type thing. Now I don=t have my book in front of me but there=s something you=re talking about with the Senate bill or Senate discussion. What can be forwarded for TAP or what are the criteria for...

MS. BURTON: You=ll see a few materials that we=re going to be reviewing at this meeting that we have requested to use existing TAP review or existing technical information. I assume that=s what you=re talking about. In other words, is there criteria for a TAP and is our charge on this Board to use existing TAPs if possible. If not, then we request a new TAP report.

MR. PIERCE: Okay. It sounds like that will come up again so if I can formulate the question better by then, I will.

MS. BURTON: Okay.

THE CHAIRMAN: Okay. Zia.

MR. RIDDLE: I=d like to respond.

THE CHAIRMAN: Oh, okay. On this same subject, I would just have a comment on this same subject. I think it=s an excellent point and something that needs some more clarification and transparency just how something does get sent on for a TAP when a petition has been submitted versus one that just kind of gets shelved or something. And I=ve heard some comments from NOP that there=s going to be more screening looking at say if it=s a livestock medication is it allowed by FDA that there will be more internal screening. So that could be part of the criteria right there but maybe looking at that decision tree and applying it to that step of receiving a petition, you know, modifying some criteria based on that decision tree, so I think it=s certainly a valid point.

MS. BURTON: Ongoing process.

MR. RIDDLE: Yeah.

THE CHAIRMAN: Okay. Zia.

MS. SONNEBEND: Okay. My specific question is several months ago I saw on the petition list that a petition was submitted for it was listed as ammonia but it=s really a machine that makes ammonia from manure,

and it seems to have dropped off the map. And in general then if a petition is not being forwarded on for a TAP how is there a way to notify us of what happened to some of those that may have fallen by the way side or did it fall by the way side?

MS. BURTON: Well, let me answer is there a formal way to notify you that if a petition comes off and, no, there is not a formal way. Bob is shaking his head. I guess you need to look on the Web site so there would be a comment period on the NOP Web site.

THE CHAIRMAN: Bob, why don=t you come to the microphone.

MR. MOORE: Bob Moore, NOP. We do have a formal process for notifying the petitioner what decision has happened with their petition.

MS. BURTON: But not for the rest of the public. How does anyone else know?

MR. MOORE: Well, I mean we do have petitions that we receive that are posted on our Web site, and that information if it goes back that information will be posted on our Web site saying that the petitioner -- the request for additional information or elaboration was sent to the petitioner, and that information will be posted on our Web site. It=s still in the process...

THE CHAIRMAN: We will not take comments that don=t come through a microphone.

MR. MOORE: I do have one more thing. Moxidectin is also being considered here.

MS. BURTON: I left one out.

THE CHAIRMAN: Thank you, Bob. Now, Emily, did you have something? Did you want to come to the mike?

MS. ROSEN: I just wanted to know what happened to the ammonia petition that she asked the same question, that they brought it to OMRI. They submitted their petition last July, and we have held off reviewing it because we wanted to understand what NOSB was doing with it.

THE CHAIRMAN: That was Emily Brown Rosen.

MS. BURTON: I had sent that back to NOP because it appeared that it was a fertilizer issue, and that it=s now back in the NOP office for clarification.

THE CHAIRMAN: Okay. All right. Thank you very much, Kim. Rose.

MS. KOENIG: I just had one question of clarification for myself. Does the staff just look at completeness of the petition or do they make a call on the criteria because I heard two messages, but they were

looking at criteria, the seven criteria, and they=re looking for completeness. What actually happens?

MS. BURTON: Before a petition is forwarded, in other words, it=s received, they are just going through to make sure that what=s on the petition is complete and accurate and then it=s forwarded to us to review for the OFPA criteria. That=s my understanding of how it works. If I said something different, I apologize, but that=s how it=s worked thus far.

MS. KOENIG: And the accuracy is based on -- is there research done at that point? What do you mean by accurate?

MS. BURTON: As far as the information in a petition?

MS. KOENIG: Yeah.

MS. BURTON: The 15 questions in a petition to make sure they are complete in answering all of the questions.

MS. KOENIG: So it=s not validity, just whether it=s filled out.

MS. BURTON: Whether it=s complete and all the questions have been answered.

THE CHAIRMAN: Okay. Thank you, Kim. Let=s move on then to the Accreditation Committee. I=ll call

on the Chair, Mr. Riddle.

MR. RIDDLE: Thank you, Dave. There=s one item on the agenda, and that is consideration of a recommendation on minor non-compliances, and after we completed action on that report, then I also want to offer a few comments on some related activities for accreditation. And both will be brief and hopefully painless. There was a Accreditation Committee draft posted on the Web site for public comment, and that original draft, which was a draft three, is contained in your meeting book under tab six, but it is now being replaced by a draft four. It was very gratifying to post something for comment and actually receive comments. I have received comments from 12 certifying agents, and then also from Rick Matthews verbal comments. And the comments received were overwhelmingly supportive of the attempt to set some criteria for minor non-compliances, but the comments were also detailed and constructive in offering some changes to the language. And so that is exactly what the committee has done, and those comments as best as possible are incorporated in this draft four which was presented to the committee last night and approved by a vote of 4 to 0 with one absent to remain as a committee draft however, so there

will be no action to take on it at this meeting. And so the intent is to post the draft four for another round of public comment. And I know that the OTA certification committee and the certifiers council are having meetings here in the next few days, and hopefully they can review this and may have some more comments to make on it. But I=ll just quickly summarize what the significant changes from draft three to draft four have been. There were several comments that pointed out that the term major non-compliance is not addressed in the rule or the Act, and suggested that the term major be dropped. And so this draft defines minor non-compliance and non-compliance, neither of which are defined in the rule, but both terms are used extensively in the rule. So we drop any reference to major in this. Also, it=s very clear now in this draft that minor non-compliances or notices of minor non-compliances do not need to be submitted to the NOP. That was unclear in the previous draft. That is a certification issue between the accredited certifier and the applicant or the certified operator, so that is a change. And then it=s also reflected now that minor non-compliances if not corrected can become full non-compliances, and then trigger the notification of proposed suspension or

revocation in those proceedings. So something can move from minor to a full non-compliance just because it wasn=t corrected. The issue may have remained the same but now the fact that it has not been dealt with is a violation of the organic system plan in essence because you=ve agreed to this. That was a condition of your certification. Now you=ve violated that agreement by not correcting that minor non-compliance. And then you=ll also see that the draft has more flexibility in terms of how the notices are distributed that the original draft had some things, you know, that there was a cover letter. Well, now it=s clear that that=s optional. That=s up to the certifier if they want to have a cover letter or put it all in one letter. And there=s more ways than just registered mail to send something in, and notices can be submitted to the NOP by fax or E-mail or express service as well as regular mail, so it=s just a little more dose of reality there. So if there=s no action needed by the Board on this it will be posted.

THE CHAIRMAN: Okay. Are there questions from Board members or comments on this draft? I think we=ll make a lot of headway.

MR. KING: Yeah, I just wanted to comment as a

member of the committee that I think it=s a great piece of work, that it does provide some additional clarity in a lot of areas for certifiers, and thank him for the time that he put in and as well all the people who commented.

THE CHAIRMAN: Okay. Other comments or questions?

MR. RIDDLE: Well, I have one more. I have to comment to myself.

THE CHAIRMAN: Okay. Just don=t ask you a couple questions.

MR. RIDDLE: There is an addendum to the guidance, and that=s another thing, Andrea, that I wanted to make clear. This is a guidance document. This is not calling for a rule change or a policy statement but it is a guidance document. But there are some examples of minor non-compliances or it=s actually kind of a grid of how something, the same kind of subject area could fall as a minor or then could be full non-compliance and lead to enforcement action. And those are really based on crop production where no examples in the table of livestock or handling non-compliances. And if anyone in the audience, any commenters would like to build on this table with

examples of livestock or handling violations or non-compliances, that would be very welcome. There=s a need for that, but I can=t guarantee that those will be there but they=re just presented as examples anyway.

THE CHAIRMAN: Okay. Do you have...

MR. RIDDLE: I think Rose...

THE CHAIRMAN: Oh, I=m sorry. Rose.

MS. KOENIG: I guess this is just use as an example too, Jim. I guess it gets back to an earlier comment I had concerning the GMO status of inputs including seeds, inoculants, and BT products. Are you suggesting that those are the only areas that we=re concerned with in terms of GMO products or is it all inputs? This goes back to that question of clarification. I think this is going to come up continually in terms of materials, more brand name materials.

MR. RIDDLE: Yeah.

MS. KOENIG: It=s obvious that...

MR. RIDDLE: Well, the lead paragraph before the table makes it clear that this is not an all inclusive list, and that was an easier part of the GMO. Certainly seeds are clearly prohibited or inoculants but some of these others like fertilizer from -- you

know, Round Up Ready Bean Meal, that=s not addressed in here. That is wide open for debate, and so I tried to stay out of really controversial issues in those examples.

THE CHAIRMAN: Other comments? Okay.

MR. RIDDLE: Yeah, then the other thing I=d like to report on is last Friday I attended as an observer really and had talked with Dave, and I guess members of the executive committee, about attending a workshop by the National Institute of Standards and Technology on the accreditation for organic certification, and this was published in the Federal Register. NIST is a government agency, and they had been requested by the International Organic Accreditation Service, who operates the IFOM accreditation program, to conduct an assessment really kind of similar to the peer review panel that Rick talked about ANSI performing for the NOP. Well, IFOM is requesting that NIST do an evaluation of their accreditation program and that accreditation or that review would be to the IFOM standards and criteria and ISO guide 61. It has nothing to do with NOP compliance. IFOM is not doing accreditation to the NOP, and that=s very clear from the workshop. But it was a very

constructive workshop. I learned more about the options for evaluation of accreditation programs and what NIST is offering there for review of IFOM. So there=s not a lot more but I just wanted to let you know that as accreditation chair I had attended that out of my own pocket, and NOP was represented there, and other stakeholders in the industry, and ANSI was at the table as well. There was an excellent sharing of information, and I do have more notes on it if people have questions.

THE CHAIRMAN: Okay. Thank you, Jim. If there=s nothing else then in accreditation, let=s move on to the Processing Committee. I=ll turn it over to Mark.

MR. KING: Thanks, Dave. We actually have three issues on the agenda. One is food contact substance policy. I=ll talk a little bit about that. The second is clarification for use of chlorine in direct contact with food. We=ve got a document for that, and we=ll actually be presenting that. And then last is simply a report concerning crop -- or, excuse me, production which really looks at post harvest handling versus actual handling or processing. We=ll talk a little bit about that. So we=ll take food contact substances first, and basically you=ve heard a

lot about it today in public comment, and certainly this is an issue ongoing. And where the committee is at this point, and the document in front of the members of the Board right now is really a brief summary of what happened at last October=s meeting. And for those of you who were there or perhaps were not there, I=ll just give you a brief overview of what those recommendations were. Essentially what the task force or the processing committee at that time recommended is that direct and secondary direct food additives are subject to NOSB review and that indirect food additives are not subject to NOSB review. Those were recommendations that passed in October of 2002 and the committee is still there so that=s just a reiteration of what that recommendation was. As part of that, if you will recall at that time we discovered food contact substances as well as the process of food contact notification. So included in that particular document was an addendum, and in that addendum essentially we recognize that this does exist, that it is something that can and may impact the authority of the NOSB to review certain materials, specifically secondary direct materials. So that was an addendum attached. It was on 10/19/2002 at the last meeting. Included in that addendum was a definition of

food contact substance, which I believe OMRI also included in their white paper. And then we provided an example of something that had been approved as a food contact substance. One was exchange. So where the committee is at now is essentially that we have some additional clarity but we certainly understand that we need more beyond the addendum, beyond the research that we=ve done, and I think if you look in perspective of considerations of this magnitude it=s easy to understand why we would need additional clarity just based on some of the public points that were brought up today so essentially we will not have a final recommendation at this meeting, and it will be the recommendation of the committee to essentially defer official action on this and research it further. We think in terms of this it will obviously help us. It will help the industry make a more informed decision. It will also allow additional time for public input on this particular issue. I think it will also allow not just stakeholders in the industry, the Board, and certainly members of the National Organic Program to look at some of the issues that were brought forward today in public comment, that being when a policy is posted what the process is for developing that policy, as well as how the Board is

involved in that, how the industry has time to comment on it, so on and so forth. Obviously, Rick=s comments today concerning the new section in the rule is new news to me, so I=ll just throw that out now and sort of leave it at that. Concerning this topic if anyone on the committee would like to add additional comments they=re certainly welcome to at this time.

THE CHAIRMAN: Comments. Jim.

MR. RIDDLE: I put together a list of ten issues or questions related to food contact substance, and it=s my understanding that those are still very much on the table, and once the committee has a closer look at them there will be the kinds of things we=re looking to have answered in order to come up with a recommendation. Is that accurate?

MR. KING: Yeah. Yeah. Absolutely. That=s accurate. And, you know, along that line I can say that in some of the read throughs secondary directs, which is 173, is really divided into four different categories, and of course there are various materials within those categories. Some are -- you know, I=m very concerned about, and I think the industry would be. There are certain things, for example, there=s a section on chemical washes for fruits and vegetables, most of which

have never been reviewed, so that would obviously be one I think we=d be very concerned about. Another section and example is that there are certain lubricants that are used on machinery in a processing facility. Technically they probably through good manufacturing practices would never contact the food, so while it=s something I think in this case where a certifier or an agent of the certifier would check through due diligence throughout the inspection to make sure that the systems were in place so that it didn=t contact food then I think we=d be okay with those kinds of things. But, yeah, to clarify your point or your question, Jim, we=ll definitely be researching specific areas. We=ll be talking to the NOP further about the policy as posted, as well as additional detail on that policy, plus the new information that was presented today.

THE CHAIRMAN: Any comments, questions? Okay. Thanks.

MR. KING: Oh, Jim, I can go if you want to...

MR. RIDDLE: Yeah, I=m ready.

MR. KING: You=re ready?

MR. RIDDLE: Yeah.

MR. KING: All right. Note to self.

MR. RIDDLE: Well, no, I=m supposed to be

keeping track of our progress.

THE CHAIRMAN: And he=s doing a darn good job. He=s been watching.

MR. RIDDLE: Yeah, I=m really looking out for any sign of progress. Okay. Chlorine, that is -- well, it=s behind tab seven. Chlorine direct contact organic food, and measuring affluent clarification of chlorine contact with organic food, and the draft as included in the meeting book was posted for comment but only in the meeting book. It didn=t have a round prior to that. There was a chlorine task force that tried to clean up this issue and that was comprised of Dr. Joe Montecalvo from Cal Poly, Emily Brown Rosen from OMRI, and myself. And we had several rounds of drafting, gathering information, and put it in the format of the NOSB recommendation and then presented it to the processing committee. There was another draft based on comments from processing committee members, and then the draft that=s being presented for action today was approved by the committee on a vote five yes, none opposed, two absent. And the problem here that we=re trying to resolve with this document really stems from the fact that the annotations on the national list for chlorine in the crops, livestock, and handling sections of the

national list don=t accurately convey the annotations that were originally recommended by the NOSB. There=s some key words that are left out that have to do with the direct contact with crops or food. And so we will be -- the committee is recommending that those annotations be corrected so that actually would be a rule change in a future round of corrections to the national list. So that is kind of the heart of this recommendation. The background section contains the actual language from the national list in those three areas and contains the original NOSB recommendation language and then also some language from the preamble and some questions and answers which are posted on the NOP Web site. And I think when you read those questions and answers that is a source of much confusion for inspectors, certifiers, producers, and handlers in terms of where chlorine is measured, what level of chlorine can be in water, and the Q and As really direct that measurement to occur at the affluent point, which would be the discharge water leaving a processing facility. And the intent of this regulation has never been to regulate waste water. It=s really what contacts organic food or what goes on land that=s certified organic. So we=re also in the recommendation have reworded those Q

and As to really focus on the issue of water -- chlorine content in water that contacts organic products. So that=s kind of the background. I=m not going to read through. Hopefully you all have. But there are five recommendations, and I just ask the Chair if we should consider them as a group or individually.

THE CHAIRMAN: Probably we ought to go through them individually.

MR. RIDDLE: Okay. So it would be a motion for each one. Okay. Well, item A, I move that the annotation of 205.601(a)(2) be changed to read chlorine materials except that residual chlorine level in water in direct contact -- in direct crop or food contact and in flush water from cleaning irrigation systems that is applied to crops or fields shall not meet the maximum residual disinfectant limit under the Safe Drinking Water Act. So the underlying text is the new text to be added.

MR. O=RELL: Second.

THE CHAIRMAN: Okay. It=s been seconded by Kevin. Is there discussion? Seeing none, all in favor of that signify by saying aye. Opposed, same sign. Motion carries. Okay. Next.

MR. RIDDLE: B, I move that there be a change

in the annotation to 206.603(a)(3) to read chlorine materials disinfecting and sanitizing facilities and equipment, residual chlorine levels in water in direct crop or food contact shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

MR. O=RELL: Second.

THE CHAIRMAN: It=s been seconded by Kevin. Discussion. Hearing none, all in favor say aye. Opposed, same sign. That carries.

MR. RIDDLE: Next item, change the annotation of 205.605(b)(9) to read chlorine materials, and then delete disinfecting and sanitizing food contact services except that. And then it would read residual chlorine levels in the water indirect crop or food contact shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

MR. O=RELL: Second.

THE CHAIRMAN: Okay. It=s seconded. Discussion. Seeing none, all in favor say aye. Opposed, same sign. Motion carries.

MR. RIDDLE: Okay. Next one, I move that there be some changes to the questions and answers to read Q, as a certified operator at what point in crop,

livestock, or handling operations should I monitor the maximum residual disinfectant limit. A, certified operators must monitor the chlorine level upstream of the wash operation or rinse operation where the water last contacts the organic product. The level of chlorine in the water which last contacts the organic food products must meet the four milligrams per liter limit set forth by the Safe Drinking Water Act. Description of the operation=s monitoring procedure is to be contained in the operation=s organic system plan. Documents which demonstrate compliance are to be reviewed and verified during the operation=s annual inspection. The second question, as a crop, livestock, or handling operation am I restricted to use chlorine at the maximum residual disinfectant limit specified under the Safe Drinking Water Act, currently four milligrams per liter at the beginning of the wash or rinse water cycle? Answer, no. Levels of chlorine used to prepare water to disinfect, sanitize tools, equipment, or food contact surfaces may be higher than four milligrams per liter and should be at levels sufficient to control microbial contaminants. If water containing higher levels of chlorine comes in direct contact with organic crops or food products, there must be a final thorough

rinse with potable water. Third question, what is the maximum residual disinfectant level? A, answer, maximum residual disinfectant level is a term defined by the EPA as the highest level of a disinfectant allowed in drinking water. This level is currently established by EPA at four milligrams per liter for chlorine. Practically applied under the national organic standards, the term maximum residual disinfectant level refers to the chlorine level of the water which last contacts organic products.

MR. O=RELL: Second.

THE CHAIRMAN: Okay. Kevin has seconded. Discussion. Seeing none, all in favor say aye. Opposed, same sign.

MR. RIDDLE: And the last motion, much shorter than the previous. The review of chlorine should be prioritized in the re-review process in light of new information about the relationship of chlorine and trihalomethanes available alternatives, food safety, health effects, and application procedures.

MR. O=RELL: Second.

THE CHAIRMAN: Kevin has seconded. Discussion. Yes, Kim.

MS. BURTON: As part of our committee work

plan tomorrow, we=re going to be presenting a policy on re-reviewing materials on the national list, so just to comment. I=m not sure how this would work in with that review process.

THE CHAIRMAN: Okay. Any discussion? Rose.

MS. KOENIG: To that note one of the questions that came up, and I guess it=s as good a time as ever to bring this up, was that when we started looking at prioritizing versus reorganization of these materials we came to the conclusion that the order in which we would review something doesn=t make any difference if everything is -- let me come back to it. Depending on how those materials are then forwarded on the docket as they have been right before this last period where we had a whole list of things at one time, we couldn=t figure out if that was the way that it was going to be handled for the re-review process at the five-year time from 2002 or every year depending on what we reviewed, would they then annually be submitted and then changed, which would have different implications as far as the way people are looking at the national list. Do you know what I=m saying? Say, for example, the question is say it=s a priority. We re-review chlorine. We determine next year because it=s being re-reviewed that

we want to remove it just say for an example, okay? Does that then get forwarded at that point or does that just get kind of put into the bank and then at the end of the five-year period upon which everything had to get re-reviewed everything gets forwarded one time. We felt that we needed clarification on that because it really affected the way that we review a product.

THE CHAIRMAN: To me that=s a very good question. That=s a very good question that=s not directly germane to the motion that=s on the table.

MS. KOENIG: Well, it is germane because I=m thinking that what Jim is assuming is that if it=s a priority that it would change immediately after it would be voted on. Is that correct, Jim? I don=t know what the thought...

MR. RIDDLE: It=s the statement of intent from the processing committee as part of this recommendation, and then it would be supported by the Board if we voted for this that there are some significant concerns about the use of chlorine and there are more alternatives that have been developed since the Board originally recommended and reviewed the material, and even that review identified numerous issues around chlorine, and I believe there have been a couple of petitions related to

chlorine that have come in over the years that haven=t made it to the TAP review process, so I agree that the larger policy of how we prioritize and re-review is a big issue, and there=s now a draft which is going to be introduced, you know, for rounds of comments but, you know, I think on the chlorine let=s just keep the focus on that for now as part of this recommendation, and then deal with the larger issues. And if the end result of the larger materials re-review recommendation that may cause us to kind of step back on this one, but right now we=re saying chlorine is right up there.

THE CHAIRMAN: Discussion on the motion. Okay. Seeing none, all in favor of the motion signify by saying aye. Opposed, same sign.

MS. BURTON: Opposed.

THE CHAIRMAN: Okay. Let the record reflect that Kim Burton is opposed. Others I did not see? Okay. Motion carries.

MR. RIDDLE: Thank you, and thanks to the members of the task force for helping to put that together.

THE CHAIRMAN: Okay.

MR. KING: One last and brief item for discussion of the Processing Committee. Last fall I

circulated a document. It was just a point of clarification on post-harvest handling versus processing primarily for crop production. I have resubmitted that document, and also wanted to -- and you=ll see in the agenda it talks about clarification for retailers. Since that time the NOP has released a document how retail food establishments can comply with the National Organic Program. In that document it does differentiate between exempt and excluded retail operations, which is really sort of the point, the crux of the problem in the past in terms of determining am I a processor, am I a handler, what am I. I think it=s pretty clear in that document certainly in reviewing that as members and stakeholders of the industry it is on the Web site. If you find issues or you have suggestions we=re certainly willing to listen to those, anything to improve the document. So I simply wanted to recognize those two pieces of information as guidance to the industry.

THE CHAIRMAN: Anything else on processing? Okay. All right. Then we will move to the...

MR. BANDELE: Crops.

THE CHAIRMAN: Oh, is there?

MR. BANDELE: Yes. This deals with the hydroponic and other solis growing systems. A little

background on that. In 1995 LSP stated that hydroponic production systems could possibly be conducted as organic operations as long as these systems met the other requirements of the national standards. And also earlier on the NOSB was directed to come up with standards for originally greenhouse mushrooms hydroponics. Since that earlier directive NOP=s current position is that hydroponics are already covered in the rule, and furthermore at the October, 2002 meeting this Board recommended that producers of spirulina be allowed to use chelae nitrate as the sole source of nitrogen until October, 2005. But at that time neither our recommendation did not really deal with the issue of whether or not hydroponic systems were really suitable for organic certification, and moreover allowed the philosophy that the organic principles are gained on developing and maintaining a healthy soil environment, and a lot of the things in the rule address that. So therefore we thought it was important to try to bring some clarity to this issue. I=m not going to go into the different types of soil systems. I think I gave a document at an earlier Board meeting but just to suffice it to say that some of these are liquid systems which nutrients are dissolved in water, and others are called

aggregate systems that contain not soil but other materials such as perlite, in some cases compost. You have some systems that deal with the straw bale. So in each of these systems there are some specific questions that could arise in terms of what would be suitable for organic certification. And those are outlined in the document. I=m not going to go into those. As a matter of fact, they really become moot in a sense based on the conclusions that were reached. And I should point out at this time that at this point this document is primarily my work at this point. The Crops Committee did briefly -- we did discuss this, but at the conclusion I=ll come up with some of the points that were made in that discussion. So I turn your attention to page four. In general, hydroponic reduction systems do not support the tenets of organic production system. And it is difficult to justify organic production systems in soil less environments although the Board has endorsed potential certification of aquatic systems via our adoption of the aquatic task force. These systems dealing with species that are naturally aquatic, and that differs from producing crops that normally are produced in land-based situations. Again, I point out the fact that the definition of final rule is not -- of

organics in the final rule doesn=t necessarily mention soil. It does mention the importance of integrating cultural, biological, and mechanical practices that foster cycling of resources, promoting ecological balance, and conserving biodiversity. Often the hydroponic systems do not promote this biodiversity since they frequently utilize systems of monoculture, and all the resources are often -- they=re not recycled but instead there=s an over reliance on external inputs whether those inputs would be synthetic or natural. There appear to be some exceptions to this in systems where fish and crops are more or less in the crop using the fish waste as a source of fertility. So some of the provisions in the Act as it relates to soil and crop rotation, soil management, et cetera, does not fall under the realm of organic production. So the recommendations at this point are as follows. Hydroponic and other soil systems for crop production are limited to the following categories, namely, the production of higher plants that are naturally aquatic species. I=m not sure of the commercial implication of that but just if we=re talking about number two, production of organisms such as spirulina would qualify so I=m thinking that logically there may be some

production of aquatic plants that may have some commercial input and importance, and production systems that utilize compost as a growing medium would possibly qualify for certification as well. And hydroponic systems that include both fish and plant species in those systems the plant component must also meet those requirements that I mentioned, and that certified must validate the producer plants that is sure that fish affluent is used in the manner that does not lead to a build up of human pathogens on the crops that are produced. One thing I=d like to point out is the current status of hydroponic, and again that=s varied. I contacted several sources and there are not many hydroponic systems that exist worldwide that are organically certified. It=s my understanding, I think I talked to Brian, there were a few in Europe in which spirulina was produced under organic certification. The United Kingdom does not permit organic certification of hydroponic operations. British Columbia does not. New Zealand also does not. In the U.S. opinions are varied. I contacted California Certified Organic Farmers, and someone in the office pointed out that in California if all of the inputs are allowed under organic production then they could certify hydroponic operations. Oregon

on the other hand stated that they did not certify hydroponic systems based on their belief that they do not follow the rules in terms of choice. We are not asking for a vote at this point. This document was viewed by the committee and I fully agree as a starting point. Moreover, with the creation of the new Strategic Planning Committee as well as the guidelines that Rick mentioned in the proposed 205.630 in terms of good guidance document, at this time it probably would be appropriate to forward that to the committee and also to NOP for further information so it=s not really ready for public comment at this point.

THE CHAIRMAN: Okay. So your recommendation though for future action on this would be to forward this then to -- as we go do some changes in the strategic planning?

MR. BANDELE: Right, because the other part of that is we=re really not sure really how much of a priority this is if people are not in fact applying for certification. I talked to Andrea, and she pointed out that there were several inquiries that came to QAI about this, but I think you said there were no actual applications for certification.

MS. CAROE: At the time the challenge...

THE CHAIRMAN: Speak into the mike.

MS. CAROE: I said at the time the challenge of input is preventing them from moving forward.

THE CHAIRMAN: Okay. Questions or comments for Owusu? All right. Thank you. Now we=ll go to George and the Livestock Committee.

MR. SIEMON: Okay. The livestock issues are in tab nine, and the first one we have is a breeders stock issue that we brought forward last fall in September and October. We had had it on our agenda but we didn=t get to it. And we=ve tried a little different recommendation here and just try to question and answer just to clarify what we think is a wide hole in the rule and just to make sure it=s very clear. So our recommendation is a question and answer. So it=s basically to clarify that once a breeder stock, and this is a mother cow, for example, comes into the organic program it cannot in any way leave organic management. And so it=s just a point of clarification so I make the motion that we adopt the recommendation.

THE CHAIRMAN: Okay. A motion has been made to adopt the recommendation that is listed on page two behind tab nine, the breeder stock. Is there a second to that?

MS. OSTIGUY: Second.

THE CHAIRMAN: Nancy seconds. Discussion on the motion. Yes, Kevin.

MR. O=RELL: George, this is strictly to go on the HOP Q and A site?

MR. SIEMON: Yes. We had a different format before but this is a format that seems to be working rather than go for a rule change so, yes.

THE CHAIRMAN: Okay. Rose.

MS. KOENIG: Did you send it to NOP to see if they agreed with your answer? Are you just recommending that they look at it and...

MR. SIEMON: They agree with the intent. Whether they agree with the question and answer recommendation, I can=t say that we -- it=s been on the call but I can=t say if we got a definite response on that.

THE CHAIRMAN: Further discussion. Okay. All in favor of the motion as presented signify by saying aye. Opposed, same sign. Okay. Motion carried.

MR. SIEMON: All right. The next one that=s on the agenda was just a fiber bearing. We don=t have a recommendation on there, and it=s something that we had promised we=d do last year when we did the replacement

clause so we=re really hoping to go to the OTA meeting and work with them and get a recommendation and have that by our next meeting, so there=s no action on the fiber bearing. The next agenda item is the dairy animal replacement, and as we all heard today there was a question and answer that came out in the -- or a chart that came out in the NOP, and we=re disappointed in that interpretation so we=ve kind of come up with a rule change. Whenever that will happen, we=re not sure. And I=ll let Jim Riddle lead the rest of that.

MR. RIDDLE: Yeah, well, that=s a good introduction. The draft recommendation that you have in front of you contains that actual language of the NOP policy statement, and then it also contains some excerpts from the preamble some of which were read by one of the commenters this morning, and then has citations from the rule and the prior discussion of the prior NOSB recommendation where we focused on how the current language of the rule should be interpreted. But now our recommendation is, and I move that the Section 205.236(a)(2)(iii) be amended. And I=m not going to read through it like I did before but it would make it very clear by changing numbers and having section dairy animals-replacement stock, and then once a dairy herd

has been converted to organic production. All their animals shall be under organic management from last third of gestation.

MR. SIEMON: I=ll second.

THE CHAIRMAN: It=s been moved and seconded to approve the recommendation that=s listed on page three in the dairy animal replacement section behind tab nine.

MR. SIEMON: Just to repeat again, this is exactly the same standard we passed last time. This time we put a new format to stimulate a rule change.

THE CHAIRMAN: Okay. Everybody agree with that? Rose.

MS. KOENIG: I gathered from public comment that everyone, large players, they favored this change in this adoption, is that an accurate statement, based in general...

MR. SIEMON: It=s still the general sentiment that this could be fixed by a technical fix but, yes, there is -- this is the next step now.

THE CHAIRMAN: Further discussion? Andrea.

MS. CAROE: What happens to the fiber bearing animals since we=re specifically addressing livestock, dairy and slaughter. What about other...

MR. SIEMON: Whatever the rule presently says

is what applies. This has no effect on that. It=s a separate issue.

MS. CAROE: And then I have a second...

THE CHAIRMAN: Andrea, go ahead.

MS. CAROE: You said that there=s general agreement in the industry but doesn=t this somewhat contradict the OTA=s presentation last year on this where they called for a distinction between dairy and slaughter animals?

MR. SIEMON: It doesn=t disagree with that part of it. The distinction between dairy fiber and slaughter still is intact in this. This has nothing to do with that distinction.

MS. CAROE: But the replacement animals would be slaughtered animals then.

MR. SIEMON: Only if they qualify for the slaughter stock.

MR. RIDDLE: Before they could be, yeah. They are 100 percent organic for their entire life so technically they would be much more likely to qualify as slaughter stock.

MR. SIEMON: Yeah, yeah. They would.

MS. CAROE: So there wouldn=t be a distinction after the conversion. All further animals are slaughter

animals.

MR. SIEMON: All replacement animals that qualify as slaughter would be slaughter. The animals that went through the transition...

MS. CAROE: I guess the clarification I=m looking for is what animal that would be a replacement and be on the dairy herd after the conversion wouldn=t be slaughter.

MR. RIDDLE: One which might have received parasiticide, which is still allowed for dairy or breeder stock but not for slaughter stock, for example.

MS. CAROE: Okay.

THE CHAIRMAN: All right. A motion has been made and seconded. Any further discussion? Hearing none, all in favor say aye. Opposed, same sign. Motion carries.

MS. CAROE: I abstain.

MS. BURTON: I abstain as well.

THE CHAIRMAN: Okay. Let the record note that Kim Burton and Andrea Caroe have abstained from the vote.

MR. SIEMON: The next issue we=ve been a little frustrated or quite frustrated with the material process and with the questions and how they apply to

livestock materials. So Nancy had written up some recommendations so, Nancy, why don=t you go ahead, and that=s also in your book.

MS. OSTIGUY: Basically all I did was I went through the seven questions, and for questions two, three, four, five, and six, I added questions that were more specific to livestock. Questions one and seven remained unchanged. There seemed to be no particular difficulty with applying those to livestock animals. But that really is the only suggestion. This is more of a recommendation for use by the TAP producers such that the materials that we get then address the questions as they pertain to livestock.

THE CHAIRMAN: Why don=t you just read those ones that you recommended the change.

MS. OSTIGUY: Number two, the portion that is currently -- of the question, the toxicity and mode of action of the substance on its break down products or any contaminants and their persistence in areas of concentration in the environment. The added portion, what proportion of the chemical is excreted unchanged from the animal, what are the metabolites. Are there differences in toxicity, mode of action, et cetera, due to the root of entry. Do residues remain in the animal,

where? Discuss quantity, type, and persistence of the residues. Question three, the portion that=s currently -- that makes up the question, the probability of environmental contamination during manufacture use, misuse, or disposal of such substance. The added portion, discuss both the parent compound and its metabolites. Discuss use, misuse, and disposal on farm. Discuss disposal of materials created during manufacture. Question four, the effect of the substance on human health, and the added portion, what are the impacts of human exposure due to the parent compound and metabolites. What is the likelihood of human exposure via consumption of animal products, for example, eggs and milk or animal meat. What is the present regulatory status of this material for livestock and human use. Question five, the portion that=s already there, the effects of the substance on biological and chemical interaction in ecosystems including the physiological effects of the substance on soil organisms including the salt index and solubility of the soil, crops and livestock. And then the added questions are, are the metabolites or parent compounds found in the feces, urine. Will the parent substance or its metabolites adversely impact non-target organisms found in feces,

soil or water. Is parent substance or metabolites taken up by plants. Question six, the portion that is currently there, the alternatives to using the substance in terms of practices or other available materials. And then the added questions, what are the current practices for maintaining the animal health within an organic system in addition to suitable natural alternatives. Are there other synthetic substances that are potentially more suitable.

MR. RIDDLE: It=s not reflected here but this was unanimously passed by the committee.

THE CHAIRMAN: So, Nancy, do you want to make a motion that we put this forward as a recommendation?

MS. OSTIGUY: I move that we put this forward as a recommendation for the TAP reviewers.

THE CHAIRMAN: Okay. Second.

MR. KING: Second.

THE CHAIRMAN: Seconded by Mark King. Okay. Discussion. Rose and then Kim.

MS. KOENIG: I guess first I do think that there=s problems and we=ve seen it in TAP reports for livestock. The only thing I=m concerned about here is the process by which we change the OFPA criteria. What I=d rather see you do is make that recommendation, I

guess, to the Materials Committee to re-review it and discuss it, and then maybe come up with a dual recommendation from both committees. I guess my concern is there=s a lot of information we may not actually want to list it in criteria but we may use that sort of like the way you have it here. The main criteria is the same but you have subsections of questions that you expect to be answered underneath that. There is some consistency from crops to livestock except the points are different.

MS. BURTON: Yeah, and I was going around the same line with you. The Materials Committee has not seen this document. So it=s new, and as a point of order in the past we=ve gotten recommendations and we voted on them the next day, so we=ve had a little bit of a chance to read documents instead of getting them and in a few minutes we get to vote on it. So I=m not comfortable with that process especially since such changes -- I support going to the Materials Committee and at least letting us look at it.

MS. OSTIGUY: I=m willing to modify the motion such that it would be forwarded to the Materials Committee for review and modification, and of course communication back and forth with crops.

MR. SIEMON: Then we don=t need a vote then.

MR. KING: Can I just have a question of clarity here. And I think Rose=s point is good, and I also agree with Kim, but I wanted to ask is it your intent to have these as additional criteria as Rosie said as a subset of the OFPA criteria, not to change OFPA in any way, shape or form but just to request additional information. That=s your intent?

MS. OSTIGUY: Absolutely. Not to change OFPA at all. It was just that it was very clear with the set of TAP reviews that we got that some of the questions, they weren=t being responded to as if we were answering the question on livestock.

THE CHAIRMAN: That=s where I think the recommendation or a reference to a recommendation had been -- Jim and then...

MR. RIDDLE: Well, in reading through the OFPA criteria it certainly appears that they were written for crop materials or materials using crop production. There aren=t anything really customized for livestock and hence the need for these clarifying questions, but, yeah, there=s no change being recommended. I support, you know, moving it through the Materials Committee, and I just ask what track are we on. Are you talking about review and then vote tomorrow or a little more

thoughtful review and compare it to maybe a need for clarifying questions for crop materials, and then if that=s the case, which I don=t have a problem with, then let=s throw it up for public comment too.

THE CHAIRMAN: Andrea, Rose, and then I=ll go back to Nancy if she=s withdrawing her motion. That=s our procedure. Rose. Andrea. I=m sorry.

MS. CAROE: It appears to me that the language that you=ve added is detailed not changing the existing language but explaining it, which would make it guidance and definitely helpful to the TAP reviewers, I think, and not only livestock but also handling and crops, so moving forward if this is a recommendation for that further guidance. I do think though that the materials folks have a better handle on the challenges for TAP reviewers so before it actually gets to the recommendation stage, I would suggest that it go through materials.

THE CHAIRMAN: Okay. Rose.

MS. KOENIG: Yeah. It=s just that pretty much the same kind of comments. It=s just also I feel like a good TAP reviewer should have answered these questions. They=re logical things. I mean part of it is that we=re finding that we have to provide more guidance than

we thought we would because we have varying people reviewing these things, so I think that clarification is not that OFPA wasn=t clear, it=s just that because we have the present TAP situation that we have that we feel we have to make it.

THE CHAIRMAN: Okay. So the maker or the motion withdraws the motion.

MS. OSTIGUY: I=ll withdraw, yes.

THE CHAIRMAN: And we will just move this forward to the Materials Committee.

MR. RIDDLE: And my question about them posting for public comment.

MS. BURTON: Oh, absolutely.

MR. RIDDLE: Okay. I just want to make sure that=s in the record.

THE CHAIRMAN: It=s not coming up tomorrow. Okay.

MR. SIEMON: The next subject that=s on the agenda, I=m going to go through them, parasiticides. We did form a task force with some veterinarians to get their feedback about which parasiticides are used in industry, what the different benefits or disadvantages are and that kind of thing. And there=s really no action today or in the next few days aside from our

researching and making a decision on moxidectin. We also want to re-evaluate some of the ones that we=ve done before, some of the information that we=ve got. So that=s just more of a report. The next subject that was listed was alternatives to methionine.

MS. BURTON: Can we just discuss that a little bit because I was confused on the ivermectin issue, I imagine.

MR. SIEMON: There=s a misspelling. There=s a wrong word in the agenda, you all. Now I don=t have it open but that=s not the right material.

MS. BURTON: Just to go through the materials review process again. To get something off the national is there has to be a petition to remove it or it goes back through the re-review process. I mean the Board can=t recommend something be taken off of the list. It has to go through that formal process.

THE CHAIRMAN: Okay.

MR. SIEMON: And I can=t say the word that=s in there, but we meant to have bendazol in there instead of that word. I don=t know how that happened. That=s the wrong word that=s in there.

THE CHAIRMAN: Okay.

MR. SIEMON: Alternatives for methionine was

listed on the agenda, and Becky has a report on some fish meal work we=re doing, but before we do that I will just say that the industry is quite concerned about methionine so there=s quite a few trials going on amongst different groups. There was a tour of Europe last fall to find out how they do that Jim Riddle was part of to see what the alternatives to methionine are, so there=s kind of mixed messages right now trying to see if there are really viable commercial alternatives. So there is a lot of scurrying around out there trying to figure out what to do with the sunset on this clause. So after that one of the alternatives is fish meal, and Becky has been working somewhat on that.

MS. GOLDBURG: Okay. As George just said, fish meal is one obvious source of methionine for use in poultry feed. Fish meal currently is not on the national list for livestock. However, the NOP Web site says that appropriate fishery products may be used in livestock feed. It=s not clear what appropriate means. And there=s obviously lots of confusion in the community about using fish meal, whether one can use it or not, and if so what kind. There are a lot of sources of fish meal. I know a lot of questions about fish meal sources including ecological considerations about where

the fish meal comes from, is there contaminants, preservatives, and stabilizers, and so on. And we find that the issues are sufficiently complex that we would like to have a TAP or TAP like process to look at different fish meal issues and sort through the associated questions and sources, and so on. I have agreed to write up a recommendation to the NOP for how we would like to move forward but would first like to talk to the folks on the Materials Committee and the NOP about how to go forward. We don=t necessarily want to petition fish meal for use in livestock in feed at this point until we have a better understanding of the associated issues.

THE CHAIRMAN: Okay. Discussion. Yeah, Kim.

MS. BURTON: Would that be similar to what we did with the task force on bio fish? You=ve formed a committee and you sought technical advice, and that sort of thing. You could request technical information based on a task force.

MS. GOLDBURG: We could form a task force. We haven=t actually sought to...

MS. BURTON: That=s just what came to my mind.

MS. GOLDBURG: Right. Right.

MS. BURTON: When hearing something like this.

MS. GOLDBURG: Yeah, but I think our feeling is that in this case we need the sort of information that a TAP review provides.

MS. BURTON: As a Board, we can request technical information. We=ve done that before with materials. So I would say I would be -- it seems appropriate but we=d have to talk about it.

MR. SIEMON: That=s the end of my report.

THE CHAIRMAN: Okay. Anything else? Rose.

MS. KOENIG: I just had a question for Becky as far as the -- is fish the most likely candidate as a supplement? Is that why you=re centering your -- you know, why are we doing a TAP just on fish? I remember when we looked at methionine there were other types of alternatives at least proposed, and we were saying what=s the feasibility of different grains and such in terms of the methionine content. I don=t mind endorsing, putting resources into something like a TAP review on something that=s really important but why are we focusing on fish?

MS. GOLDBURG: You raise a really good question and I think part of the focus on fish is it=s historically been used as a source of methionine and it=s a very good source of methionine. And the

alternative grain sources aren=t available in an organic form but it may be worth our reconsidering and doing a broader sort of review. Maybe we should have a task force potential input.

THE CHAIRMAN: Jim.

MR. RIDDLE: But the fish meal is not just a source of methionine. There=s other nutrients, minerals and such. And I think in and of itself there are enough issues just around fish meal as an allowed feed supplement or feed ingredient that should be explored, you know, sustainability of the harvest, preservatives, extraction methods, those sorts of things. Even though it=s related to methionine because it is one source, I see it as a separate issue that should move forward prior -- at the same time that the various alternative to DL-methionine are being explored, you know, by the industry and research community. And then that=s going to come back up if methionine is going to be re-reviewed and petitioned again. We=ll be looking at all of those sources, and we=ll have a lot more information about fish as one of them, but we=ll need to look at earth worms.

MS. KOENIG: I just want to ask one more question though in relationship to that. Say you start

doing your exploration and you realize that even fish emulsion -- I mean fish is used in plants in terms of fish emulsion, so it could have implications to other areas of crops and such. Are you planning on covering the entire issue? Are you going to -- it=s just a question as far as your plan.

MS. GOLDBURG: Our focus is on fish meal as a methionine substitute. However, I agree that whatever we find could have a lot of implications for other aquatic materials used in organic production.

MR. SIEMON: There=s a great deal of doubt that they=re all alternatives, and I just keep telling people then you got to have trial after trial after trial after trial through that, you know, and not just sit on your hands and complain, you know. We have to prove whether there is or there isn=t.

THE CHAIRMAN: Okay. Now I think we=re done with livestock. Then the last one that is on the agenda is the International Committee, which at this point there=s no report to give at the meeting unless something has changed in the last 12 hours.

MS. GOLDBURG: There is no report except to say that we hope that the International Committee will be subsumed as part of the Strategic Planning Committee.

THE CHAIRMAN: Okay.

MS. GOLDBURG: Or whatever we choose to call it.

THE CHAIRMAN: All right. So we are actually back ten minutes ahead of schedule at this point. So we will extend the break to a 15-minute break instead of a 10-minute break. So be back here at 3:25 so that we can maybe realistically get started at 3:30.

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[Off the record]

[On the record]

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THE CHAIRMAN: Written material recommendations and giving an overview of those. We will not act on the materials today. That will be tomorrow. So with that, I will lead off with our Crops Committee.

MR. RIDDLE: I have a question. Is now the time to discuss the material?

THE CHAIRMAN: It says no discussion, but I would prefer this -- generally what we=ve done in the past is we bring them up, we discuss them now so that we can think about them overnight and then bring them up for action. So there will be discussion allowed. Okay.

Go ahead.

MR. BANDELE: I just passed those down. I=m sorry they=re not in order as in the agenda but we=ll follow the agenda. The first one is tetrahydrofurfuryl alcohol. The substance was petitioned to be used as the inert ingredient. It=s classified currently as list three. And the TAP pointed out that it was one of the more benign compounds, which is a green solvent. And as far as the TAP review is concerned two voted to allow it, two reviewers, and one voted to prohibit. We really had a problem with this because of the confidential information aspect, particularly as it related to the criteria of one and six, the first one in terms of detrimental chemical interactions within organic farming systems, and our contention there was that we agree with the first reviewer that we really couldn=t make a good assessment of that. The second was whether or not alternatives to the substance were available and notwithstanding its Agreen@ labeling. Still when we=re dealing with synthetics the thing we always have to keep in mind is that if there are allowable alternatives then we should go that route. We contacted LP in regards to trying to get additional information to assess it. We could not get the additional information particularly in

regards to criteria six, so therefore we concur with the TAP reviewer that evaluation one and six we could not deal with, and our recommendation is to defer this material until after the information is received in regards to criteria one and six. I do want to point out that because of the confidential information, business information, we did not know how this was being used, what products were being used, how widespread it was, so we just did not have enough information at this time to recommend its approval. If other committee members want to point out something feel free to do so.

THE CHAIRMAN: Discussion. Kim.

MS. BURTON: This is so near and dear to me, this one, not necessarily the material but the process, and I just want to make sure that as a Board we=re doing the right thing with deferring this material. I understand that the crop community feels that there=s not enough information in the TAP report, but I=m also hesitant to defer if we=re never going to get it. Okay. So I don=t know whether we call Bob up here and discuss that now here and there. I have a really difficult problem with deferring this for the third time if we cannot get this material right. And again, folks, this is the problem with list three inerts with not having

enough information on it.

MR. BANDELE: We had that same problem. I=m sorry.

THE CHAIRMAN: No, go ahead.

MR. BANDELE: And it didn=t fit well with us too but in terms of carrying out our function as a committee we just did not have enough information to approve it.

THE CHAIRMAN: Okay. Rose.

MS. KOENIG: As far as Kim=s comment, I want to differentiate between -- I think your statement was not correct in regards to the fact that it=s on list three. It=s not that we didn=t have enough information. There was information that was provided but specifically the two criteria of OFPA, especially criteria six, we always no matter whether it=s a crop issue, a livestock issue, or a processing issue, we like to see other alternative formulations. We had neither information on alternative formulations nor because of the CBI information, you know, the confidential business status of the product. Growers also didn=t have that opportunity to support the petition, which is a great disadvantage to the petitioner, so with neither grower support that this is needed, whatever it is, and without

the information that there might be alternatives to whatever this is that it=s applied in the form. It=s just a lot of unknowns. Now we know that the petitioner is here and we are I think as a committee willing to consider it if we can be provided with that information but because of the confidential business status of this, we understand that that might not happen.

THE CHAIRMAN: Okay. That was going to be one thing that I was going to recommend is if perhaps on some of these where we got the petitioners here if the Crops Committee would have an opportunity to meet with the petitioners and try to address some of this after the sessions this afternoon. Nancy, and then Kim.

MS. OSTIGUY: Just to make sure that it=s in the record, we all received this with the exception of Rose on Friday afternoon. We did request but obviously too late and in the inappropriate circumstance information from Bob Huler [ph] here, so he may know the information back at the office. So it=s circumstantial to a certain degree. It may all be known, answerable, no problem, but getting the material so late is very difficult to fulfill our legal obligations.

THE CHAIRMAN: Okay. Kim.

MS. BURTON: And that=s understandable. I=m

in the same boat. But if we -- I guess what I would ask the committee to do is try to talk with the petitioner here and also talk with NOP from NOP=s standpoint will we ever get the criteria answered, and is it possible to based on what they know about it.

MS. OSTIGUY: We ought to be able to get whether or not there are alternative products because that was released to NOP, I=m assuming. Obviously, Bob can correct me if I=m wrong. He does not have to tell us what that material is, just yes, are there things that are approved.

MS. BURTON: Well, maybe that=s -- I accept your deferral but then you report back tomorrow with the follow-up of your meeting.

THE CHAIRMAN: Okay. Rose, and then Jim I=m assuming is requesting to speak.

MS. KOENIG: The point of clarification, when we say alternative materials because what we=re saying is that we=re dealing with inert in a specific active that we don=t know what the active is so it=s different than some other materials that come in where when you look at alternatives we would specifically be looking at both naturals and perhaps synthetics that are already listed. Okay. So what we=re talking about is since we

know what the list three inert is but we don=t know what the active is so it puts us in a peculiar situation to the six criteria, so the specific information that we need from either NOP or the petitioner is that are there formulated products out there that have list four inerts. It=s part of the formulation. That=s the specific question that we need answers to. And again in lieu of the fact that we don=t have grower information as far as whether these are effective. That=s a second issue.

THE CHAIRMAN: Okay. Yes. Jim and then George.

MR. RIDDLE: I think that grower information is really important, and that=s not something you=re going to get overnight, and that=s part of why I said -- because, yeah, you may get a little more information but it=s still not going to answer all the unanswered questions. And I had some of my own. I couldn=t tell from the tab or the petition what quantity of this material is used in pesticide formulations. That would be important to know. And the whole thing about what active ingredient it=s combined with or other ingredients is important. I couldn=t tell what the status of this material is internationally as well.

That wasn=t addressed in the report, and then questions about Ethanol. It=s more toxic, much more toxic, then Ethanol, the evidence, but is Ethanol an alternative. I don=t know. I couldn=t tell that. And then there have been some statements made about OMRI doing some risk analysis or assessment of this material both in the petition and in the testimony today, and I would like to have the whole picture of what was involved in that. So I think there=s more than just kind of the NOP report on the CBI that=s needed here before we can make an informed recommendation.

THE CHAIRMAN: George.

MR. SIEMON: I=m going to ask a dumb question here. Since I got it last night, I=m confused. This is an inert, a class three inert, right? Why are we worried about what the active ingredients? Why aren=t we looking at the material itself? I=m just -- isn=t that our job is to look at a chemical ingredient just like this is? Why are we concerned about the other uses? I=m just confused what=s missing. I keep hearing you saying there=s a lot missing but I just read through it several times and I=m confused.

MS. GOLDBURG: I think we=re concerned about the active ingredients too because that tells us whether

it=s necessary to organic production. It tells us something about alternatives.

MR. SIEMON: But that would have to go through the process, the active ingredients.

MS. GOLDBURG: Oh, absolutely.

MS. OSTIGUY: The active is supposedly approved so we=re not concerned about in my view -- the active is already a yes. The question is, is there an active matched with a list four that=s already available, and if the answer to that is no, well, then there aren=t any alternatives, but if the answer to that is yes, and especially if there=s a half dozen of them, well, then maybe there=s lots of alternatives, and then what we don=t know which we can=t get answered in the next 24 hours is whether or not those current alternatives -- let=s say that it is a product of the active ingredient is currently with some list four inerts, and there are a number of them just as a hypothetical, but they aren=t as effective for some things. So, okay, then there really maybe isn=t an alternative and this one should be okay. I don=t know. So that=s really what the issue is is that because we=re looking at it as a list three we don=t want to say no to it if there aren=t any alternatives.

THE CHAIRMAN: Kim.

MS. BURTON: My comment to that is that we=re not doing brand new material review here. And that appears to me as though you=re trying to match this inert with something else to create a brand material. And our charge is to review the material in front of us and not necessarily -- it has specific uses like some of the other materials that we recommend but we are charged with reviewing this material, and not what it goes into or anything else. You need to look at the material. That=s just my personal opinion.

MS. OSTIGUY: But we can=t evaluate if there=s an alternative to this material because you could say then, okay, all list fours are alternatives to list threes. Well, maybe that=s more practical.

THE CHAIRMAN: Rose.

MS. KOENIG: I just would, I guess, recommend that the Board think about -- I mean we have two basically list three inerts, and comparing it to the other petition we have all the information we kind of need to make the decision. We have testimonials from farmers saying that there are some products that have list four inerts but they=re not effective. They=ve been tested and the numerous growers have said that.

And so we do in fact have kind of that comparison, and we need that comparison because that=s where -- you know, in the case of inerts I think we=re looking at very consistently as far as how we=re looking at this other -- the other inert in relationship to the product that it=s part of it in terms of alternatives.

THE CHAIRMAN: Okay. George.

MR. SIEMON: This is a solvent. Wouldn=t we look at it and compare it to the other inerts that have that solvent function, look at it material by material. Isn=t our concern that this is a solvent. There are alternatives to this solvent that are better whether they=re two, three, four, five?

MS. OSTIGUY: Well, we can=t answer that question because what=s very important in the efficacy of a solvent is what are you trying to put into the solvent so the...

MR. SIEMON: Isn=t it the efficacy of the end result of it like used on the crop?

MS. OSTIGUY: But we don=t know that. I=d be happy with that information also.

MR. SIEMON: This is a very benign solvent over all.

MS. OSTIGUY: Yes.

MS. KOENIG: In general the way...

THE CHAIRMAN: Okay. Let me call forward the petitioner, and then, Brian, I=ll call on you for -- okay. Come forward and identify yourself.

MR. IMARAJU: Again for the record, I=m John Imaraju with Amvac. I=m the petitioner. I represent the petitioner. I think I can shed some light on some of the discussion going on. It really helps me. First of all, it wasn=t our intent to hold back information. I think we provided two copies, one to the CBI, and it wasn=t our intention to keep anything hush hush. And I can go on record and say, yes, there are others out there with an active ingredient that this is coupled with but they do not have specific uses on them. One of the uses being is amaticide [ph]. None of the products out in the market place have amaticide activities on their label. Ours does. Okay. So right then and there is the direct use which answers your question number, what is that, six, what the alternate is. There are none. For that specific use there is none. Okay. On number one, detrimental chemical interactions. It=s a very benign solvent if it=s used, and there=s a lot of literature about it. There was some discussion about being of oxidizing potential and so on and so forth, but

you=re looking at a use like 8 ounces per 100 gallons or 20 gallons of water it=s completely diluted. It=s like 20 parts per million. And we do not anticipate any such interactions. And we have used it. Commercially it=s being used, and we have not seen it because if we had seen it we would have pulled it out because we have tremendous liability from out standpoint on a product that could create problems at the grower level. So we know it does not exist. And there was specific reference to material for mixture aligned. Our label specifically prohibits mixing such materials not because of its interaction capabilities but because of higher pH to break down. In terms of the solvent itself, it is a highly desirable solvent not only for this product but for any botanical product that=s going to be coming out if this is approved and put on the national list. I think it opens up an additional powerful material that can be used for use in organic agriculture. I=m just not talking about my products. In fact, I would go as far as recommend and say put this as a solvent on the national list and try to list it as such.

MS. KOENIG: So you=re saying the 6 to 12 ounces per acre that=s of the formulated product?

MR. IMARAJU: Yes.

MS. KOENIG: That=s also the use as an amaticide though? That seems like a very small amount of amaticide.

MR. IMARAJU: As an amaticide we go as high as 22-1/2 ounces per acre, so that=s about three times of that. But labeled maximum is 22-1/2 but growers use it all the way from 10 ounces per application up to 22-1/2. And many times we do not use a higher rate simply because it=s not economically viable for them at that rate so they use it at a reduced rate putting something else in it.

MS. BURTON: My recommendation again that the Crops Committee meet with him and set up this Board time because I think a lot of this -- and then come back with your recommendation. I mean if it=s still to defer it then that=s what it is.

MR. BANDELE: Yeah, I did have a question. So you=re saying that there are no organic alternatives to amaticide or are you saying there=s no alternatives...

MR. IMARAJU: The active ingredient.

MR. BANDELE: The active ingredient.

MR. IMARAJU: Exactly.

THE CHAIRMAN: Jim has got a question that he=s...

MR. RIDDLE: I see this as the time on the agenda to discuss this material. We=re going to vote on it tomorrow whether it=s to defer or to approve. So I do have a few questions, and hopefully you can answer them.

MR. IMARAJU: I=ll do my best.

MR. RIDDLE: Yeah. And I don=t need exact quantities but approximately what percentage of the inert is in the formulation?

MR. IMARAJU: One of the attributes of the solvent is it allows a lot of the active ingredient to stabilize it because the natural factor comes in a percentages. A fixed percentage -- if you get a lower grade material then you have to add more stuff to bring it up to this fixed level. Do you know what I=m saying?

MR. RIDDLE: Yeah.

MR. IMARAJU: In which case the solvent would be less. But if it=s a pure material than the solvent goes up. What the beauty of this solvent is when you add, it allows you that flexibility of the active ingredient without disrupting the fixed label claim. And so my direct answer to your question would be it varies from say 60 to 70 percent.

MR. RIDDLE: Okay. A range. That=s all I was

looking for.

MR. SIEMON: 60 to 70 percent of the final material is this inert?

MR. IMARAJU: Yes.

MR. RIDDLE: Okay. Do you know its status for organic use in other countries?

MR. IMARAJU: Not of this product, no. You mean of the solvent?

MR. RIDDLE: Yeah. Right.

MR. IMARAJU: No.

MR. RIDDLE: You don=t know one way or another whether it=s...

MS. CAUGHLAN: What was your question, Jim? Sorry.

MR. RIDDLE: Yeah. Is it allowed for organic use in other countries, and he doesn=t know one way or another whether it=s specifically allowed or prohibited or what.

MR. IMARAJU: I know on list 4B, for example, ethylactate, for example, got approval for list three, and this is much more benign as a lactate. So one alternative we could be doing is petition EPA and re-apply for a list four, and this would be a waste of time. But again we don=t want to go to that route.

We=d rather have the approval from NOSB, and so my recommendation is we have discussions. In fact, we have already submitted a petition to EPA as was suggested by the TAP reviewers for EPA to reclassify this on list four. For us time is of the essence.

MR. RIDDLE: And one more. It=s just I couldn=t tell in the TAP review just how this material compares with ethanol, and why is it preferable and what are the comparisons?

MR. IMARAJU: Ethanol is a highly flammable solvent. It goes under restrictions. It needs to go under special packaging. It=s highly flammable. The flash point of this product is much higher than ethanol so there would be an extreme safety issue if we put ethanol in it.

MR. RIDDLE: You said as far as -- I understand those considerations with ethanol but as far as its action as a solvent and materials that you=re working with, how does it compare?

MR. IMARAJU: I=ve been working with this product for about 12 years now, the active ingredient, and I=ve seen a lot of formulations that have come and gone that had ethanol in them and there have been a lot of stability issues, so the shelf life can, you know, be

six months, eight months, but with this solvent we have a longer shelf life which again aids the farmer to sow the product and use the product with stated label claim without having to throw it away or add more stuff into it.

MR. RIDDLE: I appreciate your answers.

THE CHAIRMAN: Okay.

MR. BANDELE: Just one clarification. You said one of the labels is labeled partially as amaticide?

MR. IMARAJU: Yes.

MR. BANDELE: Okay. You also said that 60 to 70 percent of the product is the solvent.

MR. IMARAJU: Yes.

MR. BANDELE: Okay. And I=m assuming that other similar products active ingredient do not have this property but yours does.

MR. IMARAJU: They do not have the claims on the label because the active ingredient undergoes different extraction steps, and different extraction steps produce different solubility profiles. Okay. And I=m saying that we have evaluated a wide range, including ethanol, as well as the solvents and it does not seem to work primarily from a standpoint of safety

considerations and also from shelf life product stability standpoint as well.

MR. BANDELE: I ask that question because if in fact this product is more toxic to amaticides where others may not be then it may be that it also has an adverse effect on other microorganisms. Since you said you don=t know the others status that kind of makes that moot.

MS. OSTIGUY: But not necessarily. Actually I wanted to address that. Not necessarily. Other products may not just -- just not have the label. They may also be active against nematodes but they=ve never applied for that label so you can=t say anything...

MR. IMARAJU: Exactly.

MS. OSTIGUY: ...whether they are or aren=t or whatever.

THE CHAIRMAN: Okay. Then I would recommend that the Crops Committee meet with the petitioner then after the session. Brian, you have your hand up. Did you have additional information? From the audience if you have information to fill in some of the blanks that the Board is asking, that=s appropriate.

MR. BAKER: Brian Baker. I have very little to add, and I=ll be brief, but two or three points. One

is that the TAP review, as I understand it, indicates that the product is still on the OMRI list. That is not true. However, it is one of the 47 inert ingredients that OMRI reported to EPA that we consider to be eligible, a good candidate for reclassification as minimum risk or list four. Before the 2000 rule, we did review list threes on a case by case basis, and we have information on file regarding the product but we are also bound by confidentiality agreement with listed parties. And I can=t say anymore than that. And because of the late date of the TAP review coming available we=re not able to comment on the technical points. The data and information are back at the office.

THE CHAIRMAN: Mark.

MR. KING: Yeah, Brian, a quick question. Was this material at one time -- product with this material in it at one time on the OMRI brand name list?

MR. BAKER: Yes, prior to April of 2002 it was.

THE CHAIRMAN: Okay. Rose.

MS. KOENIG: On those 47 inerts that you submitted to EPA, where was the status of this one?

MR. BAKER: I don=t know. I might be able to

find it on my laptop. It=s back in the office. I=m sorry I don=t have it in my head.

THE CHAIRMAN: Okay. I think additional discussion at this point -- Kim.

MS. BURTON: Just one final comment because people -- a lot of this decision is weighed heavy based on one reviewer saying that they didn=t approve the process because of the criteria not being able to complete and then the CBI but two reviewers did approve this material. So just for the record, two of three recommended that it be added and one not.

THE CHAIRMAN: Okay. All right. Next.

MR. BANDELE: Potassium silicate would be the next one. This petition is seeking use of a synthetic substance used in plant disease control under Section 205.601(j) and also as a synthetic substance used in organic production as plant or soil amendment.

MS. OSTIGUY: You didn=t give us this, did you?

MR. BANDELE: It=s not in order. All three reviewers on the committee felt that potassium silicate is a synthetic, and we discussed both uses. We felt because of the nature of silicon soil and that there were other non-synthetic materials available such as

greenthan [ph] silicon oxide, but we did not feel that it was necessary to approve it as a sole amendment. On the other hand, as we all know, there are very, very few tools in terms of plant disease and management within the organic sensors such as copper and sulfur compounds. The latter of those has a limited use in some of the vegetable crops there. For example, I think it shows problems with sulfur toxicity. There was a concern about on the part of the TAP reviewers in terms of it being unproven as a plant disease control substance. However, I think the petitioner subsequently supplied additional information and some additional tests in that regard. Originally, the committee voted to allow this material but the disease control only under 205.601(I). However, after discovering that the material had not received EPA label required for pesticide use, the committee reconsidered this recommendation. So, therefore, by a 4 to 0 vote the Crops Committee recommends that the decision regarding potassium silicate be deferred until an EPA label is obtained. That is the position that we have taken to this point. However, there are some additional considerations now. The petitioner is here. We=ve had several discussions relative to that. It was pointed out -- I think Rose

pointed out that we=re really not dealing with the formulation but the material itself so because the petitioner is here, again, this is another one that we struggled with and that we are still in the process of finalizing.

THE CHAIRMAN: Rose.

MS. KOENIG: I just want to clarify that. Upon thinking about that EPA -- our decision as far as the labeling and EPA label, I have come to the conclusion we really didn=t discuss it as a committee, that really it=s not a concern because we can list it. We=re not looking at a brand name. It=s up to the company if they=re going to use it as disease control. We have it under disease control section. Only registered pesticides should be used as disease control materials, so I just don=t think that we need to defer it on that status.

THE CHAIRMAN: Okay. Jim.

MR. RIDDLE: Yeah, well, I see that as being parallel to livestock medication being recommended, which is not allowed by FDA.

MS. OSTIGUY: Actually that=s different, Jim, because we=re actually recommending actual products with livestock. This is not a product.

MR. RIDDLE: Well, they were both generic.

MS. OSTIGUY: They=re active ingredients.

THE CHAIRMAN: Let Jim finish his comments and then we=ll...

MR. RIDDLE: I think it=s an interesting material. It was very interesting to read the tab, and it=s the kind of thing where I would like to see some allowance for research purposes to really establish more data on the efficacy of the material and its appropriateness for organic systems. But in reading the various labels that were included there were formulations that 28 percent potash, I see it as very similar to the discussion we had a year ago here on calcium oxide and hydrated lime, so I agree wit the committee on its clear prohibition of its use as a soil amendment or a source of fertility but how do you escape the fact that there are formulations that are 28 percent potash. And it=s certainly going to have that effect when it=s applied. You may say you=re applying it for disease control but it=s going to be a fuller nutrient if not a soil nutrient at that kind of level, and so I have real problems with that. And I couldn=t tell from the TAP, what its status is for use in the EU for organic. Once again the TAP talked about conventional

listings for conventional uses but didn=t give me any clear answer to organic status. I think there=s questions. I could support deferral pending more information on the pesticidal use, but otherwise I have some problems.

THE CHAIRMAN: Okay. Nancy.

MS. OSTIGUY: Jim, one of our reasons for thinking that it would be acceptable for pesticidal use that it wouldn=t get abused was the expense issue, that there are cheaper sources for the nutrient than this.

MR. RIDDLE: Yeah, and cost is not a criteria.

MS. OSTIGUY: No, but in terms of the chance of abuse. That=s what we=re talking about. I don=t care about the cost either but this is actually a fairly expensive product that would prevent the abuse, one would think, for the use as a nutrient.

THE CHAIRMAN: Kim.

MS. BURTON: A couple of things. I don=t know if you=re officially deferring this or you=re questioning about deferring it because of an EPA label, and if the petitioner is here, I would hope that they could address that. The other thing is this is one TAP that we had for a month and a half so there=s no -- we shouldn=t defer because we don=t have the right

information. That information should have been sought out prior to today.

MS. OSTIGUY: Well, there isn=t a label. We know that.

MS. BURTON: We know that. Okay. So there isn=t a label.

MR. RIDDLE: There is no label.

THE CHAIRMAN: Okay. Rose.

MS. KOENIG: The only question I had also on it was we=re not clear on the source of the potassium, how it=s made. I guess the TAP took it that it=s derived from potassium carbonate. I=d just ask the petitioner just to get a clarification on the potassium source.

THE CHAIRMAN: Do you want to call him up?

MS. KOENIG: Yes, please.

THE CHAIRMAN: Okay.

MS. THOMPSON: Judy Thompson with PQ Corporation, and the source of the potassium carbonate is indeed processed from potassium chloride. And this is new information to me. This is made from potassium chloride, which is mined out of Canada. It is combined with water to form potassium hydroxide, and that in turn is combined with carbon dioxide to form the potassium

carbonate. So this is a clarification on our raw materials. The other raw material is sand, which is mined high purity sand.

MS. CAUGHLAN: What?

MS. THOMPSON: It is a mined high purity sand.

THE CHAIRMAN: Okay. Kim.

MS. BURTON: A clarification about the EPA label. Is this something that you applied for?

MS. THOMPSON: We haven=t yet applied. We expect to apply for it.

MS. BURTON: So a point of clarification to committee then that if you were to recommend this material we would be recommending something that currently isn=t allowed.

THE CHAIRMAN: Rose.

MS. KOENIG: That=s what we weren=t clear on. We know that it=s not -- this is not labeled but we never surveyed all of the pesticides out there that might contain potassium silicate to see if they were labeled. We don=t know. Basically that=s what I=m saying, yes, in this case of this particular brand name we know it doesn=t have an EPA registration but by not allowing it as a generic on the list it=s saying that you=ve exhausted the survey to find out that in fact

there is no...

THE CHAIRMAN: Kim, and then Becky.

MS. BURTON: As a petitioner to -- well, you=re not currently using this in organic production?

MS. THOMPSON: Correct.

MS. BURTON: So by deferring this to try to get this EPA issue more clarified is not going to hurt your business or anything in any manner?

MS. THOMPSON: It should not hurt the business. We see it as one step in our efforts with this product.

MS. BURTON: That=s a criteria we evaluate against but it certainly...

MS. THOMPSON: We would like to see it allowed with the understanding that we don=t have that registration yet.

THE CHAIRMAN: Becky.

MS. GOLDBURG: Rose asked a question about whether potassium silicate was registered with other pesticides. I was wondering if that=s a question you can answer because obviously you have some expertise on this product.

MS. THOMPSON: To my knowledge the only registration is as a list for the inert. I=m not aware of its use in pesticides right now.

THE CHAIRMAN: Thank you.

MR. BANDELE: Next we have phosphoric acid. We received a petition to consider phosphoric acid as a synthetic substance allowed in crops to be used to adjust the pH for aquatic plants extracts. The committee had reviewed phosphoric acid from processing and livestock. The petitioner also pointed out that phosphoric acid is allowed for pH adjustment with liquid fish products which was mentioned this morning. We unanimously found the material to be synthetic. However, we found the use in livestock and processing to be inadequate for this review. Major concerns raised regarding the use of phosphoric acid to boot phosphoric availability which stated purpose to adjust the pH. Moreover, questions concerning soil reaction would be critical to the petition lacking in this. Possible alternatives were not adequately addressed in the petition. I think the petitioner mentioned citric acid, lactic acid, but the quantity involved seemed to be the major deterrent here. The committee also felt that the approved use in liquid fish formulation was also questionable and subject to further review in light of the sunset provisions that are now upon us. So with that in mind we=re recommending that the decision

regarding phosphoric acid be deferred pending a TAP review for its intended use, and that review should also reassess its use in liquid fish products. A further concern that the committee had from the background material I should point out is that we were not sure of whether or not the pH level of 3.5, which was for the fish product, was also necessary in plant extracts. The vote was 4 to 0 with one absent.

THE CHAIRMAN: Discussion.

MS. BURTON: I guess just a couple things. Just for further discussion, we need to decide at some point of recommending other TAP reviews to review the materials is not the proper way to go so that=s just an overall comment.

MR. BANDELE: I=m sorry?

MS. BURTON: And the comment -- because we had supplemented I think two or three other TAP reviews from processing and livestock for this material of this review, and we just need to revisit that process because I think that ultimately it could work if we request a supplemental report or something to be added so that=s something that we=ll work on. We=ll add that to our list under materials. The problem that I have with this is that there=s three other sections of the national

list where this is allowed material. And it is being used as a pH adjuster and it=s allowed as a pH adjuster under 205.601(j)(7), and it=s allowed as a cleansing agent under processing. Yeah, 205.605(b)(22) as a cleaner, and 205.603 in livestock. So not that I want to argue with the Crop Committee on this but I have a difficult time I guess deferring material that is already on the list in three other places.

THE CHAIRMAN: Owusu, and then Nancy.

MR. BANDELE: My response, Kim, in part would be that it=s also not allowed in crops under fertilizer. It=s not explicitly but the fact is like when you=re looking at triple super phosphate, which is a regular conventional fertilizer, the only difference between that and rock phosphate is that it=s treated with phosphoric acid. So in some cases it is allowed but for crops it=s not allowed.

MR. SIEMON: Except that it=s allowed...

THE CHAIRMAN: Nancy is first, and then George.

MS. OSTIGUY: To me there is a difference between the three different areas, three major areas, especially in this one in that phosphorus is one of the major plant nutrients, and we=re not talking about

phosphoric acid as a major animal nutrient. This doesn=t work the same way in all the systems. And so I actually do think it=s justified on occasion that something could end up in two out of the three lists or one of the lists and absolutely be inappropriate for the others. And this one may be in that circumstance. That was part of the reason for some of the questions this morning to the petitioner having to do with the other acids and the formation of potassium phosphate.

THE CHAIRMAN: George.

MR. SIEMON: But it=s allowed in fish meal with the limitations of pH adjuster so that should take care of the concern that it could be used as a fertilizer. I don=t see the difference between this and fish meal. We=re talking about it can be in different components. Fish emulsions, excuse me.

THE CHAIRMAN: All right. Jim, and then Rose and then Owusu.

MR. RIDDLE: Well, Kim brought up that it=s listed in other places on the list and so did the TAP, but it didn=t actually mention that under the livestock listing phosphoric acid allowed as an equipment cleaner provided that no direct contact with organically managed livestock or land occurs. How would that affect that

annotation? We got to think about this, you know, and some of the other implications. And I agree that there needs to be a TAP for crop use. I didn=t have enough information about this material, and the other materials used in the extraction process, potassium hydroxide and sodium hydroxide, and then what levels of phosphorous in the material in the aquatic plant extracts actually come from phosphoric acid. It probably would be significant, and so it is a fertilizer but you can=t tell. We don=t have enough information there, so I support a TAP for crop use.

MS. KOENIG: In answer really to George=s question as far as the fish versus the aquatic plants, I don=t know if you remembered when we asked Brian earlier he said in fish because of the protein concerns of the fish that you can get a lot of microorganisms there so the pH is actually lowered to prevent the growth of those microorganisms that might potential have human health problems or health concerns whereas the petitioner said in this case it=s really a product life stability or shelf live of a product, which is two very different concerns, and that is explicitly the reason why in terms of saving TAP dollars that we=ve been mandated to try to do as much as possible. We really

feel that we need to review to actually get a TAP on this intended use because it=s very different than the other intended uses for phosphoric acid, but at the same time since we=re going about that task why not look at it because we=re going to have to look at it for fish anyway because we have to re-review the stuff that=s on the list. Do it concurrently, save the dollars, and figure out the bottom line. And just to reiterate I guess Jim=s point is that sometimes things aren=t as much of a problem because it=s -- but when you=re adding something that can enhance fertility in a product that you=re selling for fertility of soils, you know, there=s a little bit more concern in terms of fortification where the potential benefits of fortifying your product through an extraction and then preservative type process such as this is.

THE CHAIRMAN: Owusu.

MR. BANDELE: The first point I wanted to make in terms of the justification which it=s used in the fish product.

THE CHAIRMAN: Andrea.

MS. CAROE: I just want to clarify. This doesn=t appear to me to be a petition for phosphoric acid for crop production but a change to an annotation

for an existing product that was listed. And I think we=re looking at this more like a material to be used for crop production instead of the change of the imitation, and addressing the specific needs of this material, the aquatic plant material.

THE CHAIRMAN: Something to add as far as explanation to clarify -- okay.

MS. SONNEBEND: Zia Sonnebend, CCOS. I want to agree with what Andrea said but also bring up the point that the reason that you need an additional report on this as distinct from fish is that the alternatives for use is stabilization of aquatic plants products are different or may be different. And you should look at as the gentleman mentioned this morning that there are some preservatives that would work in much smaller quantities than phosphoric acid that might be viable alternatives, but you have to accept the concept that something is needed to stabilize these aquatic plant products and then look at whether that takes also petitioning the preservatives as an alternative or just looking -- have a TAP reviewer look at what the pros and cons of some of those alternative preservatives are that might be worth looking at.

THE CHAIRMAN: Okay. All right. Do you have

something to add?

MR. HILTZ: May I make a comment?

THE CHAIRMAN: Only if you=re addressing a question that has come up at the table here.

MR. HILTZ: Well, yes, and in some ways I=ve heard a couple of comments here this morning...

THE CHAIRMAN: Your name again and identify...

MR. HILTZ: Sorry. It=s Dave Hiltz from Acadian Sea Plants. Someone was mentioning the possibility of fortifying this as a fertilizer additive. If you look at our application rates and guidelines for using this product with the amount of phosphoric that we=d be adding, it would be the equivalent of adding about five ounces of P205 to an acre of crop use per year. And according to every agricultural person we=ve spoken to that level of adding P205 would not be significant compared to other fertilizer additives that are being used. And the idea of someone using our product as a fertilizer as a phosphate source would work out to something around $70 a pound for a phosphate fertilizer so I would doubt very highly that anybody would buy this and use it as a phosphate fertilizer as such.

THE CHAIRMAN: Jim.

MR. RIDDLE: Do you know the analysis of the product without phosphoric acid versus the analysis of the product with phosphoric acid?

MR. HILTZ: Yes. The seaweed itself contributes very little phosphate to the final product if phosphoric acid is not used, basically a negligible amount.

MR. RIDDLE: And then with phosphoric acid what would be the analysis?

MR. HILTZ: We would go like from, for example, a liquid product I=m thinking would go from something like a .50 for the phosphate, 6 for the K20, to like a .536 for the K20 so we=re adding 3 percent P205 to the product. When you multiply that through our application guidelines it adds up to an amount of around five ounces of actual phosphate that would be added to that crop per acre, which is a very little amount, a third of a pound.

MR. RIDDLE: Yeah. If someone is using it full air which is often how this is used that still could be a boost and don=t think of it as an acre but some very intensive production. It boosts the product.

MR. HILTZ: At a very low level, yes.

THE CHAIRMAN: All right. Owusu.

MR. BANDELE: Well, I did have that same concern that the petitioner just mentioned because I still would -- that was one point I was really thinking back in the small percentages. When you put it on a per acre basis it=s really not that much but there were other considerations as well. The last one is the glycerine oleate. We received a petition to consider that product as a synthetic allowed in crops. We did use the TAP for glycerine monooleate and found that to be adequate in this case. It is a list three. In the TAP our reviewers found that the material was synthetic. Two reviewers voted to prohibit its use, and one reviewer voted to allow it. The petitioner stated that the material was used as an anti-foaming agent in micronized sulfur formulations used in control of several diseases. Some producers use that as well as a range of vegetable crops. It was reported that the absence of the glycerine oleate greatly reduced the efficacy of the product and more sulfur would be needed. The committee also discussed the EPA=s plan for reclassification of list three inerts exempt from tolerance in 2006. All committee members agreed that glycerine oleate was a synthetic. In this case the Crops Committee recommended that glycerine oleate be

added to 205.601(m)(2) with the annotation of until 2006. The vote was 4 to 0 with one absent.

THE CHAIRMAN: Discussion. Okay.

MS. BURTON: I just have a funny story.

THE CHAIRMAN: Okay. We=re good for a funny story here.

MS. BURTON: Bill Denevan [ph], most of you know Bill Denevan. He was the passionate speaker at our last meeting, the grower. And I had spoken to Bill one day when he was using the material that was recommended without the anti-foam agent, and he called me and he said I am knee deep in foam. There=s more foam on my grounds than on the leaves of these trees, and I=m having to apply about five to ten times the amount just to hope that it fixed the trees. So that=s kind of a visual for you, knee deep in foam.

THE CHAIRMAN: Okay. All right. Let=s move on then to the livestock materials.

MR. SIEMON: In tab nine the reviews, the recommendations are all grouped together. They=re not with the individual materials in your book. On the agenda the first one is the proteinated chelates, which we did not get the information back, and so we will not be addressing here. So that one was easy. The next one

is calcium propionate, which is in your book there. And we had looked at this before as a milk fever treatment, now we=re looking at it as a mold inhibiter and dry formulated herbal remedies. And definitely it was a synthetic as we said before. And we=re recommending to allow its use. And we had the original annotation of only for the use in aloe vera products for livestock production. I was hoping to meet with the livestock committee after this meeting and I was going to suggest that we change annotation to be as a mold inhibiter and dry formulated herbal remedies myself. That was what was applied for and we just used the wording we had for that. I think we should reconsider that. So if you look at the top page you=ll see as a mold inhibiter and dry formulated herbal remedies.

MS. BURTON: George, can you just tell me where your recommendations are. I=m sorry.

MR. SIEMON: Right after tab nine. They=re not with the material.

MS. BURTON: All right. Thank you.

THE CHAIRMAN: In the workman=s test.

MR. SIEMON: So again this is one we=ve already dealt with once. We had sent back for more information on it for this use, and again last year --

well, it wasn=t last year. It was last fall, I guess, when we dealt with the aloe, and this is one of the ones that came out of that. So we sent this back and now we=re putting it forward as an approved material. Any discussion about this?

MS. BURTON: I have a question. I thought that at the last meeting we had approved a different material as a mold inhibiter in aloe.

MR. RIDDLE: Potassium sorbate.

MS. BURTON: Potassium sorbate. I should know that.

MR. RIDDLE: That=s in liquid formulations and this is a...

MS. BURTON: Could you just tell me the reason why it won=t work in the feed pellets versus in the liquid because we=ve already approved one preservative used only in aloe. Have they tried this material since it=s a material that we=ve already approved in this...

MR. SIEMON: Well, the liquid is for therapeutic use, I guess, and the pellet is more something that=s fed on more of an ongoing basis on a preventative basis.

MS. BURTON: Yeah, I understand the difference between the two but we approved one preservative. I=m

questioning if that preservative could be used in this case versus approving another preservative.

MR. SIEMON: So they would use the liquid in the feed is what you=re saying?

MS. BURTON: Yes.

MR. SIEMON: I think that=s a dispersement issue.

MS. BURTON: Has anybody asked the petitioner? Is the -- the petitioner is not here.

THE CHAIRMAN: Just as a point of information the item that=s in the book, we did get E-mailed to us, the one that is updated which does have in there under the conclusion the calcium propionate is compatible with organic systems when used as a mold inhibiter in aloe vera products for livestock production rather than the in rare emergency cases. So what=s in the book is not -- we had the atropine thing under the conclusion. What we have is the actual conclusion in there is that calcium propionate is compatible with organic systems when used as a mold inhibiter in aloe vera products. Okay.

MR. SIEMON: I see.

THE CHAIRMAN: So the language in the book...

MR. SIEMON: Okay. There=s a mistake there.

THE CHAIRMAN: But there=s also a typo there where it says they were unclear as to whether or not aloe vera.

MS. OSTIGUY: Dave, what happened was these actually went out in draft form, the corrections that occurred, so the version that we now have has all those corrections.

MR. SIEMON: We should have copies if there=s any changes.

MS. CAUGHLAN: When? Where? When did you get...

THE CHAIRMAN: This was E-mailed to us.

MR. RIDDLE: But it hasn=t been handed out.

THE CHAIRMAN: No.

MR. RIDDLE: Meaning the updated.

MR. SIEMON: I was not aware of that.

THE CHAIRMAN: Go ahead, Mark.

MR. KING: I just have a question because as I understand the petitioner there are two uses here, feed and then another it=s used in liquid formation for the treatment of milk fever, and so I guess my question is does this recommendation thoroughly cover those two uses, did you differentiate between those two uses in the discussion?

MR. SIEMON: We approved the first use last fall.

MR. RIDDLE: We voted on the treatment for milk fever use.

MR. SIEMON: But we deferred just to get more information. And I see Dave is right so I=ll make sure we get a copy of this to everybody. I=m sorry.

THE CHAIRMAN: Okay. Kim.

MS. BURTON: And now that I have the information the TAP, supplemental TAP, did specifically say that potassium sorbate was an alternative, and we have already approved that. I just want to point that out.

THE CHAIRMAN: Okay. Other discussion? Okay.

MR. SIEMON: Okay. And then the next one is furosemide. And again that=s behind tab nine, the recommendation. This is a material that=s used for udder edema. It helps take away the pressures of basil constrictor. I guess it tightens the veins that somehow helps with the edema. And we had deferred this previously to get more information. And the TAP vote was two to allow and one to prohibit. It=s not listed in the summary. I didn=t put all those in there. And then our recommendation is to allow it with the

annotation to double the FDA withholding. And now I have to remember was there an FDA withholding.

MR. RIDDLE: Yeah, 48 hours.

MR. SIEMON: 48 hours.

MR. RIDDLE: But we also have to cover why we aren=t satisfied with just the FDA withhold, so we have to justify that.

MS. OSTIGUY: That is in the background information that after 48 hours there=s still a 10 percent residual left in the animal.

MS. GOLDBURG: It should be up to 10 percent.

MR. RIDDLE: So that=s the justification for the annotation.

MS. OSTIGUY: Correct.

THE CHAIRMAN: Yes.

MS. BURTON: A point of clarification, and I think NOP has to answer this, if we=re recommending a double withholding time and this is going to go forward for a recommendation and then again get forwarded to EPA or FDA for authorization, is that something that they=re going to stop because we=re recommending a double withholding time, and if that=s the case then I=m questioning just like we did on some of our subset revisions that we make it very clear that if this

material is recommended with that annotation, and the FDA is saying it=s not allowed then we recommend that annotation be taken off. That way it doesn=t stall the process of these materials getting on the national list. Does everybody understand?

MS. CAUGHLAN: That would assume that we could support the material without withdrawal time.

MS. BURTON: Correct. I just want to make sure that we clarify that before we forward this because I don=t want us to stall materials anymore if we don=t have to.

MR. KING: Could I just add to that?

MS. BURTON: Absolutely. A friendly add.

MR. KING: Friendly add. And that is a question which may not be relevant but if it is, please address it. She=s saying and the recommendation says double FDA hold time. That=s one way to phrase it. If it were just phrased numerically without...

MS. CAUGHLAN: Without referring to...

MR. KING: Without referring to that, would that be helpful, is that possible as another...

MR. JONES: Like say 96 hours.

MR. KING: Exactly. Exactly.

MS. JONES: I=m Keith Jones, director of

program development for the National Organic Program. There=s a couple assumptions you got to make. Assuming this material is indeed in FDA legal use, okay, you can recommend an additional or a holding withdrawal period, whatever you want to call it, beyond the FDA position. However, in order to do so you need a very compelling reason, okay, because FDA=s withholding period is considered to be say it has passed all their muster, it=s passed all of their dose sets, so this Board=s reasons for moving away from that has got to be extremely compelling and related to the criteria. Okay. But legally you can do it. Okay. Whether it passes compelling muster is another question.

THE CHAIRMAN: Okay. Jim.

MR. RIDDLE: So in the case of this material the TAP showed that 90 percent of the material had broken down by the withhold period, so that could be an example of justification for organic use to lengthen, to recommend a longer withhold.

MR. JONES: Yes. In answer to that question, Jim, it could be but the Board has then got to examine what it is saying when it says we want to do X. In other words, let=s assume the FDA withdrawal period is 45 days. You double it to 90 days. Okay. What does

that do? You don=t get any data to show that it does anything. Okay. Other than look real good on paper. Okay. So what I=m saying is that if you make a decision where you have taken a federal regulatory agency=s data set and begin to tinker with it without your own data set you=re really on thin ground. Okay. We know you can do it but you=re on thin ground once you move there without data to support a rationale behind it. Okay.

THE CHAIRMAN: Okay. Kim, and then Mark.

MS. BURTON: Let=s assume they feel we don=t have the jurisdiction to do that or enough recommendations or scientific sound recommendation, and then it comes back to NOP saying the annotation is incorrect. At that point what would happen to the material in your assumption? Would it then be -- the annotation be revised or would it come back to the Board for another shot at it?

MS. JONES: Well, I=m going to make an assumption to that, Kim. Okay? Assuming that the material being petitioned was legal under FDA, and assuming the industry felt that there was compelling need for the petition in order -- the material in use we would most likely just simply go with the FDA withdrawal period. In other words, to get it out in the register

and get it used the shrewdest thing, the most prudent thing would be to say, okay, we didn=t make the cut, but let=s go ahead and get this out because the industry said they need it and it=s accepted. Okay.

MS. BURTON: Thank you.

THE CHAIRMAN: Mark, and then Jim.

MR. KING: Yeah, just building on this a little bit. Let=s say, for example, just to use an arbitrary example that we state a double withhold time based on nutrition or human health. Okay, just to state one of the criteria. And then within that we again just arbitrary example could find data that showed a specific time point after the treatment with this particular material that there were less in meat in this case after 96 hours, you know, whatever the time period is versus what FDA=s is, would that be enough data. Simply stated that we as an industry have always protected based on the criteria, the nature of the products in that regard.

MR. JONES: Mark, with that example you=re asking me to speculate on what FDA would do. I don=t know what they would do. I mean I think what I=m trying to say is that the Board has got to be careful when it moves away, even though legally you can. I mean we=ve vented this with FDA and they don=t have a problem with

it. You really got to be careful when you move away from the FDA withdrawal period because again back to my example let=s say you double the withdrawal period. Do you increase the margin of health or safety by 5 percent in terms of doing it. You don=t know. I mean you don=t know what objective outcome you=re going to reach by doubling the withdrawal period. Intuitively, intuitively you would say, okay, there=s got to be some benefit. Okay. And this is your all discussion. I don=t want to...

THE CHAIRMAN: Well, this is helpful, Keith.

THE CHAIRMAN: Okay. Jim, and then I know Richard -- okay. Becky.

MS. GOLDBURG: I want to point out that our consideration of withdrawal time here was not cavalier. We didn=t just say double it. There is actually in the TAP supplement an almost one page long discussion of half life and metabolites. We don=t know the exact shape it occurs and where 96 hours would put us versus 48, but we can make an intelligent guess at it so this is not a wholly uniformed decision.

THE CHAIRMAN: Jim, and then...

MR. RIDDLE: Yeah. I think on this particular material we do have the data to justify it like Becky

was just saying. But I=d like to get back to the scenario that Kim was talking about, and that is, okay, you take it to them and they don=t find our justification compelling. They come back to you and say our withhold is long enough on this material. You know, since the Act, you know, says that the Board must both recommend the material and requirements for its use, which means the annotation, shouldn=t there be a loop completed where there=s a consultation with the Board, hey, FDA has said this and executive committee give tentative approval, put it on your agenda, and have a full Board vote just so the loop is complete.

MR. JONES: Yeah, sure, Jim. I=m not precluding that process. Kim posed an assumption to me and I responded to that assumption, and part of my assumption was that the industry needed this material in the field as quick as it could get it. Okay. We=re not going to do things unilaterally. We=re going to consult with you, okay, but there may not be enough time if this is really critical material to extend the consultation where it goes back for another TAP review. You kind of made that point.

THE CHAIRMAN: All right. Thank you. Now Rick ambled toward the microphone at one point. Okay.

Rose.

MS. KOENIG: Yeah, I think sort of what Keith is saying, and I=m not speaking for him, but the problem with...

THE CHAIRMAN: He says it with more of a Texas drawl.

MS. KOENIG: Yeah, I know. I have a New Jersey thing going on. But the question is do we have zero tolerance policy. As far as I know, we don=t have zero tolerance, you know, in every single drug that we=re doing so we have to be careful that we=re not haphazardly deciding. And I agree with Keith in this sense even though usually I don=t. But, you know, it=s like consistency is really important and if we have a zero tolerance policy then I can say that we could also say not only is there 10 percent less left but we also have some kind of policy or there=s something in the regs that say no residual drugs can be left, but without that I don=t see how we can extend something beyond what FDA recommends is my view.

THE CHAIRMAN: I would just repeat what Becky said as far as there is some discussion in the TAP on that. Okay. Now just as a point on this one, and I will on the future ones I=ll point this out as we go

seeing as how there is some difference. On this one there=s no real material difference between what the version was, the final version that the committee voted on, just some typographical things where the current version says the -- under introduction the NOSB received a petition to consider Furosemide for medicinal livestock treatment as a diuretic. And withhold is not two words under recommendations so that=s not real material. Okay.

MR. BANDELE: One question on that. I was just wondering like even if you had good data showing that there was less residual if you didn=t have a corresponding relationship between the health thing would that still be compelling enough?

MR. SIEMON: In this one as an example, this is only 48 hours. This is such a rare use that this is not a limitation to double it. We don=t want to...

THE CHAIRMAN: Okay. Are we ready to move on?

MR. KING: Just one quick -- if I could just ask for a highlight. This isn=t even the whole thing, George. This was brought up in the TAP and I wasn=t part of your discussions, and this is a rare occurrence and they=re saying especially in sustainable systems, and so in your experience or anyone on the committee

want to chime in here in terms of just management and prevention or natural alternatives since this is such a rare occurrence why is there a pressing need for it?

MR. SIEMON: There=s not a pressing need for it. It=s an alternative to going to the problems with a hard udder or going towards mastitis and antibiotics, and right now there is an alternative in our material which we would have a very different answer if we looked at it today and that=s oxytocin, and this is much different than oxytocin. I would much be in favor of this over oxytocin.

MR. KING: By different you mean better?

MR. SIEMON: Better, yeah. Much better. So right now we have a synthetic alternative that I personally would vote off the list if I had the opportunity to.

MR. KING: All right. That=s all.

MR. SIEMON: And that would make this more desirable then. We got a veterinarian we can even call now.

THE CHAIRMAN: You got to identify yourself.

MR. DEVAN: Mike Devan, Fort Dodge Animal Health, Technical Services veterinarian. One of the things that this Board needs to keep in mind

particularly as it pertains to livestock in my view is the importance of considering pain and suffering on the part of the animal, and udder edema in a dairy cow is a very painful condition, so I just wanted to add that for your consideration.

MS. CAUGHLAN: From my perspective the idea of hooking this cow up after two days after 48 hours after the type of treatment that required this would be inhumane.

THE CHAIRMAN: Okay. We=re not going to get into that discussion but, Nancy.

MS. OSTIGUY: Basically the advantage of this material, it prevents mastitis so it prevents a further complication later. The likelihood that any animal, milk is going to come from it, et cetera, after either of these treatments after 48 hours is not great.

MR. SIEMON: Moving on?

THE CHAIRMAN: Yes, moving on.

MR. SIEMON: Mineral oil is the next one that I have, and again, Dave, you=ll have to help me if there=s...

THE CHAIRMAN: Yeah, let me because there is a change. Other than the typographical, if you look under the recommendation the actual recommendation should read

the Livestock Committee recommends that mineral oil not be allowed for use as a dust suppressant in the formulation of livestock mineral vitamin supplements (the petition only requested consideration as a dust suppressant, not as a dispersal agent).

MR. SIEMON: Any other changes there? Okay.

MS. CAUGHLAN: Read it once again.

MR. SIEMON: The Livestock Committee recommends that mineral oil not be allowed for use as a dust suppressant in the formulation of livestock vitamin/mineral supplements. And then (the petition only requests consideration as a dust suppressant, not as a dispersal agent).

MR. SIEMON: This material was, as it says in the introduction, was for mineral mixes and initially it had been endorsed for the use by the initial TAP but we requested more information because there was hardly any referral to the dust in the first one. And I guess there was a disapproval of 4 to 1, and I was the 1, and I just know how hard it is already just to get the organic pre-mixes going, and there=s so many feed mills out there, I just thought that with the five-year review I felt it should be needed to help the development of organic livestock feed. I think it=s a big enough issue

at the level it was at, and then the safety issues of the dust for the workers in the plant. I don=t know if anybody else has any comments on it, the Livestock Committee. Jim.

THE CHAIRMAN: Go ahead, Jim.

MR. RIDDLE: Yeah, since George gave the minority report, some of the reasons why the committee voted to not allow it for this use was that while it=s just the exact opposite reasoning that George presented in that not allowing it is going to stimulate the development of vegetable oil alternatives that are compatible, much more compatible, and that are not prone to rancidity and are good dust suppressant agents. That=s one. And then the TAP revealed that there are extensive negative human health effects and that EPA lists mineral oils as confirmed human carcinogen. And so the dust that contains mineral oil droplets actually could be hazardous, as well as the fact that this is continued reliance on a synthetic petroleum product going into livestock feed, so those were some of the rationale why we felt it shouldn=t be added.

THE CHAIRMAN: Kim.

MS. BURTON: That was my question for the alternatives because in my TAP report it says that oil

rancidity is a problem with vegetable oil, and if you=re going to deny this material because the alternatives are vegetable oil, that is one alternative, but if the TAP also says that they were rancid so it doesn=t seem to me like people are going to change their manufacturing methods, these big producers to use something that=s not going to work for them. So just from a livestock thing, I question that validity.

THE CHAIRMAN: I=ll just weigh in on this one also. I had an opportunity to visit with some folks that produced some vegetable based products with some information that there is some products out there that do not have the rancidity problem.

MS. OSTIGUY: That=s what I was going to say.

MS. BURTON: But I want to make sure because the TAP says that they are. I want to just clarify that.

MS. OSTIGUY: The TAP is not complete.

MS. BURTON: That was nice to know before I had to raise my hand again.

MR. SIEMON: I also heard from Dick Kringle here and he said that they=re able to do their mineral mixes with no added oils now to talk against my own position. Any other mineral oil? Move on to the next

one which I have as atropine. Dave, I have new ones but I don=t have yours so unfortunately we got two drafts here, and I will get copies to everybody. So let=s here, Dave, what the difference is between the final recommendation and this one.

THE CHAIRMAN: In the atropine there=s only in the significant sideline issues here there=s additional commentary, and it says according to the rule a producer must feed an animal conventionally. If approved organic methods fail the producer must remove an animal from organic production if the need for atropine results from exposure to an organic phosphate or other synthetic acedacolestrates [ph] inhibitor if the acedacolestrate poisoning results from ingestion of a non-synthetic material, e.g. a plant, then administration atropine seems appropriate within an organic system. Okay. This was...

MS. OSTIGUY: I wrote it so I know what it says.

THE CHAIRMAN: So, Nancy, you may want to give that commentary.

MR. SIEMON: Okay. I was trying to see what the TAP vote was.

MR. RIDDLE: Five in favor of adding it to the

list, and the one absent.

MS. BURTON: It doesn=t matter.

MR. SIEMON: It doesn=t matter. We=re recommending to add it without annotation, 5 to 0, and 1 absent vote. Any other comments about this? It=s used as an anecdote for plant poisoning mostly in the northwest. That=s the only use it was. Oh, and pink eye as well. That=s right. That=s what came in the supplemental, and that=s actually what motivated us to be more positive about it is that it was used for pink eye treatment.

THE CHAIRMAN: Okay. Go ahead.

MS. CAROE: Are you recommending this for all uses, no annotations?

MR. SIEMON: Yes.

MS. CAROE: My question then since a listing of a material will allow that animal to stay in organic production is an animal that=s poisoned with an organic phosphate, one that you...

MR. SIEMON: In plant poisoning.

MS. CAROE: Organic phosphate.

THE CHAIRMAN: Nancy.

MS. OSTIGUY: The reasoning was that if an animal got into an organic phosphate pesticide that that

in and of itself would cause the animal to no longer be organic. If the animal decided to chew on larkspur, that in and of itself shouldn=t disqualify the animal, yet if you don=t treat that animal it will die because it does have acedacolestrate inhibitor in it such that it acts identical to an organic phosphate.

MS. CAROE: Okay. So it=s for the natural plant poisonings, not necessarily for organic phosphates.

MS. OSTIGUY: It is not for organic phosphate poisonings because that in and of itself would exclude the animal from being organic.

MR. SIEMON: But again what came out of the additional TAP was the use for the pink eye, and I think that superceded our earlier interest as a medicine.

THE CHAIRMAN: Okay. Anything else about that?

MR. SIEMON: All right. The next one moxidectin, which we heard testimony on today. And again mine doesn=t show the changes.

THE CHAIRMAN: No, there=s no changes on that one.

MR. SIEMON: No changes on this one. This is a topically applied broad spectrum parasiticide against

both internal and external. It=s got no withholding in the FDA world. It=s used both for dairy and meat animals. And I think we -- oh, here I got a hand out right here. One of the big concerns that the committee had was this macrolytic antibiotic properties and so here is the petitioner has provided some information here that answers that concern as well as earlier we got a hand out from the petitioner that was given to us when they made their public testimony, so we do have some new information here. But our original recommendation was not to allow it, and it was my hope that the committee would get together and look at this new information, maybe meet with the petitioner after this to see if that was still a recommendation.

THE CHAIRMAN: Any discussion, comments, questions? Okay. I know you=re ruminating on something here. Yeah.

MR. RIDDLE: Well, it wasn=t just the antibiotic properties whether it=s used as an antibiotic. I mean still the concerns about the antibiotic properties remain. But there were also some other concerns that the material has a six-month half life and binds tightly to soil, soil particles, and it is a broad spectrum against arthropods and nematodes, so

it certainly could have impact on soil ecology even though it may not have a negative effect on dung beetles. So that was one of the concerns. Another is this is a topically applied material so it=s transderma and penetrates all through the animal by being poured over the back, and that=s a different entry system than something which is ingested and digested. And so, you know, that raises some red flags to me when something is so potent that it=s applied to the skin and then penetrates the entire animal. And the residues remain in fats and lipids is another concern, I guess. It remains active for at least 28 to 42 days and 26 percent being excreted through the feces. So the material is applied on the back of the animal and then 26 percent according to the TAP passing through the feces. So these are just a few of the kind of red flags that I identified. I don=t know how much we=ll discuss them.

THE CHAIRMAN: Okay.

MS. GOLDBURG: I agree with you, Jim, there are concerns about the medication being systemic in the animals. That said, I think that if we accept what we=ve been given our concerns about the anti-bacterial effect of this compound should be ignored that in fact it does not have those characteristics.

THE CHAIRMAN: Okay. Andrea.

MS. CAROE: I hear your concerns as well, Jim, with powerful material like this but it seems to me as I quickly go through this tab that this material has no withdrawal period whereas ivermectin, which is on the list, does. So it seems to be inconsistent activity of this Board to allow the one material and not this one. It seems to me to be a good indicator if there=s no withdrawal time on this and there is on the other material that it actually may be more persistent.

MR. SIEMON: It has a 49-day withdrawal.

THE CHAIRMAN: Okay. Nancy and then Kim.

MS. OSTIGUY: I would agree that ivermectin is a Aworse product@ than this one. Ivermectin in my opinion does not belong on the list. There are other parasiticides, I=m not going to be able to come up with the name right now, that the Livestock Committee has discussed with veterinarians that has much less residue, fewer effects on target species, et cetera. This material, one of the concerns that I have about it is its solubility and its long half life. Those would be my primary concerns.

THE CHAIRMAN: Kim, and then Andrea.

MS. BURTON: I=m grazing through the TAP

report but I can=t find it other than it=s in my brain somewhere. I=m going to ask the petitioner this. I believe somewhere in this report or maybe it was even in your comments that said that moxidectin is allowed for all dairy and all livestock versus the ivermectin. That=s true?

MR. DEVAN: It has a zero withdrawal for both meat and milk.

MS. BURTON: Okay. Zero withdrawal. Okay.

MR. SIEMON: It doesn=t work on sheep though.

MS. BURTON: Okay. And then I also believe that it had other beneficial effects other than ivermectin. I=m not a cow girl, so to speak, but can you explain that to me?

MR. DEVAN: Let me just kind of review the label with you. Invecticides is a class to work both on external and internal parasites. So the efficacy is virtually the same between the two products. Now having said that, if we look at safety profile of the products within this class, moxidectin is by far the safest relative to human exposure, even double exposure, and also certainly by ingestion of a product after its having been administered to that animal.

MS. BURTON: Thank you. And then, Nancy, your

comment that there=s other alternatives available out there while we don=t have this material in front of us to review so I don=t know how we can compare alternatives if we don=t know what they are and our TAP report isn=t...

MS. OSTIGUY: It did not refer to it.

THE CHAIRMAN: George.

MR. SIEMON: Would you address -- I mean it seems like this material has a long life, yet it doesn=t get into the meat or the milk. It=s an odd -- like Jim is saying he=s concerned about the half life so it seems like an odd mixture.

MR. DEVAN: Well, and that=s a question that has come up a great deal, and not just in this circle. When we first got the zero withdrawal that question was asked by a lot of producers and veterinarians, and the reason is because of the chemical nature of the product. If you compare ivermectin and moxidectin, for instance, the initial dosage that is in fact absorbed through the skin, the plasma circulation goes up very rapidly. It also comes down very rapidly to a very low level. The other thing that fits into that deal is the fact that it has a very, very low order of mammalian toxicity, hence the very -- hence the zero withdrawal. Okay. If you

look at the difference between arthropods and mammals the big difference is the fact that mammals have what=s called a blood brain barrier. And the activity of this compound is upon the gabba parts of neurologic transmission, so what this does is interferes with neurologic transmission in those arthropods and nematodes. Now in humans we have a blood brain barrier. It doesn=t penetrate into the neurologic system of humans and consequently it has a zero withdrawal.

THE CHAIRMAN: Okay. Andrea first, and then Jim.

MS. CAROE: Well, I just wanted to address Nancy=s comment. Your comment that there are other alternatives out there. They=re not on this list. If this material does not get approved organic livestock producers will be forced to use what we seem to agree is an alternative that=s not as good as this. I mean I just want to kind of bring us back to reality right now for organic farms right now do you want them forced to use that alternative or do you want to give them better tools, which this appears to be a better tool.

MS. OSTIGUY: The difficulty is, and this is something that I do not know the answer to, one thing I would not want to do is approve moxidectin, then do what

the Livestock Committee would like to have done, which is a more comprehensive review of parasiticides so that we do choose the most appropriate material, and then say moxidectin isn=t okay. That would be even more confusing. It=s an individual judgment.

THE CHAIRMAN: Okay. Are there other questions of the petitioner while he=s...

MR. RIDDLE: Yeah, a question I have. I just want to make sure I understand you correctly that the reason it has no withdrawal withhold for the meats or milk is not because it=s not there. The residues could be especially in the fats or in the milk but they aren=t toxic to humans or mammals. It has a very low or negligible mammalian toxicity, correct?

MR. DEVAN: That is correct.

MR. RIDDLE: So the material could remain there and remain active. It says it doesn=t have to be withhold because it=s not going...

MR. DEVAN: And it=s not an extended period. It depends upon the particular species. For instance, nematodes that you=re talking about, some of them more susceptible than others. With any drug there are what we call dose limiting species, species that pretty much dictate the dosage at which you apply the product and

others which are much more susceptible. Does that...

MR. RIDDLE: Yeah. Yeah.

MR. DEVAN: May I address the issue here? One thing that you have to remember as we look at this is the fact that you=re not only talking about internals, but externals. And one of the things that was brought up particularly in the TAP review is that you have no other product unless I misread the list. It=s active against, for instance, the cattle grips.

MS. OSTIGUY: We only have ivermectin on the list.

MR. DEVAN: Ivermectin as far as anything that would be effective against cattle grips.

THE CHAIRMAN: Okay.

MR. RIDDLE: But then the other point I wanted to make in response to Andrea is this is not -- parasite management, internal and external, is not an issue of just materials. It=s an issue of management. You know, it=s good pasture management rotation, minimizing moisture, good housing, dry bedding, selection of species, breeding. There=s a lot of management factors, and then mechanical fly control, non-material related, so we got to look at the big picture and not just think this is the only one, but I=m not opposed to having a

tool, a material, but I want it to be the best material. I don=t know yet if this is it, you know.

MR. DEVAN: I=ll be glad to make myself available for additional questions.

THE CHAIRMAN: Okay. Thank you.

MR. SIEMON: I think it=s crucial we remember that any parasiticide we approve has a 90-day prior to production for milk so this is real crucial when we=re talking about this half life and how long it lasts. There=s a 90-day period from the use of this material before milk could be used organically. And I=m just trying to read the review. I=m seeing 42 days and 75 days. What is the longest that you think it could still be in the animal in relationship?

MR. DEVAN: If we go back to the discussion about the FDA, the FDA uses 40 parts per billion in milk as a criteria for this compound. That=s in the TAP review. And consequently -- no, I=m sorry. It=s in the response to the TAP review. 99 percent of the animals would be well below that at 0 days. So then the question becomes moot.

MR. SIEMON: All right. I=m going to read through the -- but it=s important to remember the 90 days.

THE CHAIRMAN: Okay. Any other questions for the petitioner? Okay. Other discussion? Yeah, Becky.

MS. GOLDBURG: I=m not suggesting that we adopt this position but something we keep in our mind as we consider this material. We may not be ready to approve it because of concerns. On the other hand maybe we want to say that until we do the petition until we do a more comprehensive review of parasiticides and defer a decision. I raise as a possibility as we continue our deliberations.

THE CHAIRMAN: Brian.

MR. BAKER: Brian Baker, OMRI. Briefly, I would like to have those people who are new to the NOSB and those who were around in 1999 remember that the TAP conducted a special review of parasiticides based on petitions for fenbendazole, avamasole [ph], and ivermectin, and many of the cultural and biological alternatives were explored at that time. Moxidectin was not included in that review. It was brand new, relatively new on the market. There was very little data and certainly no petition at that time for this specific item. That=s why the TAP review did -- the white paper on parasiticides and parasiticide use in organic agriculture did not address moxidectin. I would

ask that the NOSB at least consider and read that white paper rather than redo that work.

THE CHAIRMAN: Thank you, Brian.

MR. SIEMON: Okay. That=s the end of the materials. Is there anything else? I=d like to see if we could try to meet. When do I do that, later on?

THE CHAIRMAN: Yeah. We will meet after you get done caucusing to do your meeting report for the day. Okay. Let=s move on to the processing, soon to be handling.

MR. KING: Yes, almost last on the agenda today but new things to take care of. We have five materials. The first on the agenda listed as egg white lysozyme. This petition obviously for handling and processing depending on how you want to deem it for products labeled as organic and they prefer organic. Quick background and history. The national list 205.605(a), non-synthetics allowed, currently has enzymes, must be derived from edible, nontoxic plants, nonpathogenic -- no, no, that=s the wrong one. It should be animals on that. Excuse me. Too many drafts. So let=s go to the national list, and I=ll read the actual statement as it exists right now. Okay. 605(a) enzymes must be derived from -- it=s actually on (b) and

needs to be moved, correct, Kim?

MS. BURTON: Yeah. In the technical document we haven=t seen it appears that it=s going to be listed under (b) and not (a), and the Board originally recommended under (a).

MR. KING: Yes. Okay. Thank you. So in November of 2000 we recommended to add enzymes, the NOSB, animal derived, nonsynthetics allowed, animal derived, catalyse, animal lipase, pancreatin, pepsin, and tripsin. So the recommendation from the committee and really first the consensus among reviewers is that the enzymes were non-synthetic. They also agreed that many enzymes were compatible with organic principles. However, the reviewers did point out and recommended to the committee in this case through the TAP that they should be considered on a case by case business. They also all reiterated the prohibition of GE enzymes. No brainer there. So the committee discussed this, looked at the historic position of enzymes, reviewed the TAPs, the available information, and we offer the following recommendation, which is to add to 205.605(a) just the animal derived, the statement I just read to you, which is catalyse, animal lipase, pancreatin, pepsin, tripsin, and then add egg white lysozyme also to this list. And

then I would note under technical correction here that it needs to be moved from animal derived to under 205.605(b), so that needs to be corrected. And as sort of part of the recommendation but more as a technical aspect. The committee vote was unanimous that it=s non-synthetic, and the committee also supported the recommendation unanimously. I=ll entertain any comments or discussion.

MS. CAROE: Do you have a copy of it?

MR. KING: Yeah, it was on -- for those of you on the Board it was on the original hand out earlier today. It was part of the stapled to the back.

MS. BURTON: Just a comment, Mark, just for some further clarification on this material. The Board did review it with this first set of animal enzymes and the petitioner actually submitted to us minutes of the meeting. One of the reasons we did not approve this was because of its draft status and questioning whether it was draft material, and then they therefore provided us with that documentation so that was additional information submitted to us for the review.

MS. CAUGHLAN: Mark, we didn=t get -- she didn=t and I didn=t.

MR. KING: It was handed out earlier today.

THE CHAIRMAN: Some folks have it and some don=t.

MR. KING: In fact, it says food contact substances draft. Additional recommendations are also stated.

MS. CAUGHLAN: I didn=t get it.

MR. KING: Okay. Well, next as listed on the agenda is nitrous oxide, and like you=ve heard many times today the unfortunate reality of this TAP is that it arrived late on Friday, as in almost over the weekend, so the recommendation of this committee is to defer that based on we just simply have not had time to make a thorough decision on that particular material. Next is malic acid. And let me get to the correct page. Malic acid, actually the synthetic form was petitioned in this case, which is DL malic acid, petitioned to use as a pH adjuster. So I=ll tell you a little bit about the reviews. The reviewers all said it was synthetic, and should not be allowed on the national list because there is a non-synthetic viable alternative. However, in the tab it was sort of inferred that there were these alternatives but it wasn=t totally clear that they were commercially available. However, through some research and a conversation with the petitioner we discovered

that indeed there is a natural source almalic acid. So the recommendation from the committee is really two fold. One is to add the natural source almalic acid to C.F.R. 205.605(a), and then, two, to essentially I guess the correct term would be archive that petition. The justification for that really is the discovery happened literally just like a week or so ago or a few days, and the petitioner was very comfortable in saying, yes, there is a commercial source out there but also expressed a bit of reservation about totally taking the synthetic malic acid out of the condition process because they only had enough time to test it with their products, so on and so forth. They felt at this time there was reason to believe that it could be useful but they don=t have any clear data on it yet. So the committee vote in this case is that unanimously it was not synthetic, that it=s a natural source, almalic acid, and the recommendation was supported unanimously as well.

MR. O=RELL: And just to follow up on what Mark was indicating when we talked to the petitioner finding the availability of almalic acid in the natural form and recognizing that that would function the same as the synthetic DL form in his application so they

didn=t have time to do a whole lot of testing with this material but the assumption is that it is going to perform and function as the synthetic that was petitioned for.

THE CHAIRMAN: Any comments?

MR. KING: Next, sodium acid pyrophosphate. This was petitioned for use as a leavening agent in baked goods, specifically to have a controlled rise of the dough or refrigerated dough, something of that nature. And this is a -- and I=ll let Kevin perhaps elaborate a bit on this from his technical expertise and his daily life is that this is part of the larger group of phosphates that are used in food processing and have a variety of applications so if you want to...

MR. O=RELL: And this particular compound is very unique in terms of its functionality as a leavening agent or leavening asset. It=s designed to give the proper amount of release of CO2 when combined with sodium biocarbonate throughout the process rather than give a quick reaction. Some of the things that were discussed as possible alternatives in the TAP review, I think it was citric acid and maybe vinegar. Those would have an immediate reaction with sodium bicarbonate and would not give the finished desired characteristics in

terms of flavor development and finished texture properties of the baked goods.

MR. KING: And one of the things we found is that this truly was the best material out there for this specific use and that also in September of last year we recommended sodium pyrophosphate be added, and that was used following annotation for analog product. So this is consistent. It=s also clear through the TAP material that this is the best material for this specific use. So the following recommendation was forwarded, and that is to add this material, sodium acid pyrophosphate to 205.605(b) with the annotation for use only as a leavening agent. The committee felt unanimously that it was synthetic. The vote was five who supported with a year vote and one no, and one abstention in this case. However, under minority opinion, and I could...

MR. O=RELL: I=ll cover that.

MR. KING: Go for it.

MS. BURTON: Just on a side note. This is like the fourth time phosphates have come up for review as processing aides, so to speak, for materials. And one of my biggest questions is are we going to end up going back and forth, back and forth in reviewing phosphates every time somebody has a specific use for a

material, and it appears that that=s been the history of these. So I had a discussion with Kevin because the last thing I want to do is have somebody else come up and say, well, now I want to use this sodium acid -- this material for a different use.

MR. O=RELL: Dairy foods, for an example.

MS. BURTON: Dairy foods, for an example. But Kevin, his answer to me at least was that there=s thousands of different phosphates out there, and they all have different functional effects, and that there=s definitely some phosphates that we could not want to recommend for use in organics so it=s probably going to come back again and again for this specific type of review. So that did give me a little bit of clarification on why they keep coming up and, yeah, in this case we probably do have to review on a case by case basis because they are for highly processed foods.

MR. KING: Well, plus we enjoy reading.

MR. O=RELL: We=re also getting a lot of information now in the TAPs on phosphates and a lot of it might just need supplemental information in terms of a specific usage.

THE CHAIRMAN: Jim.

MR. RIDDLE: Yeah, and I voted against this in

committee, and I agree that we=re kind of on a slippery slope of phosphates. Once you=ve said yes to one how can you say no and be consistent with yourself but on this particular material, I didn=t have such a problem with the material but I had some real problem with the TAP here, that it did not address the international organic status whatsoever, and it=s my understanding that the EU is actually prohibiting phosphates so we could be setting ourselves up for some international trade issues there. We just don=t have -- the TAP didn=t address that. But the worse part was the TAP did not review this material against the processing criteria and went so far as to state the additional criteria created by the NOSB for processing materials have not been addressed or answered, and then copied in the criteria themselves but did not address them. I mean I can=t accept that myself. It=s inadvertent some of the answers, some of the information is there, because they did address the crop production criteria and some of those cross over but when they go so far as to tell us they didn=t address it to the processing criteria it=s really a vote of protest.

MS. BURTON: And perhaps that=s just either a miscommunication or a function of requesting

supplemental information versus a full TAP because this was recommended as a supplement and they had all three existing TAP reviews. And we=ve never given specific -- the reason it popped up is because all the livestock supplements were the same format, so just in defense of the process a little bit I=ll add that to the materials follow up docket, so to speak, on material review but we asked for a supplement, not a complete TAP, and so that=s probably why you didn=t get it.

MS. CAUGHLAN: He did look at nutrition, for example, which was not addressing the others.

MS. BURTON: Again, it=s just more of we need to be clear on what we=re asking for, and I apologize to the Board for not doing that.

MR. KING: One point I would make is that Jim=s correct in the format of the TAP but some of the -- and thank goodness for this, some of the reviewers took it upon themselves to recognize certain criteria and address those, so some were addressed but it was sort of comical that the contractor chose to state the criteria and then say we didn=t deal with it.

THE CHAIRMAN: Andrea, did you have your hand up?

MS. CAROE: Yes, I did.

THE CHAIRMAN: Okay, and then George.

MS. CAROE: Just a quick question to the committee regarding your annotation, why the other uses in production were eliminated by your annotation, specifically cheese multiplier, self rising flour, tuna canning, texture. I=m not quite sure what...

MR. O=RELL: Just the specific use and application.

MR. KING: Well, I could talk about how it was petitioned. These other uses were certainly listed and that=s a valid point. But it gets back to the age old argument of specific use and application as part of the petition was as a leavening agent. Those other uses were listed and certainly if you want to elaborate on any of those, that=s fine.

MR. O=RELL: We did discuss that, the other uses, and there are some other legitimate uses for this. Some of them are covered by the phosphates that are previously approved for dairy applications. One could argue you get uniquely -- if you use sodium acid pyrophosphate in a process cheese food versus the oracle phosphate you can get different functional characteristics in terms of texture, but I think you can substitute the oracle phosphates in most area

applications for the sodium acid pyrophosphate. And the other one was a key lading application for sequestering agent for key lading for potatoes to prevent browning during processing. Some of the other ones were concerned about recreating flavor or texture during processing. And again going back to the point after it was discussed we went back to the specific use and application of the TAP, and felt comfortable in just staying with its recommended for a leavening agent.

THE CHAIRMAN: George.

MR. SIEMON: We didn=t get any of the hand out over here. Does anybody have any extra ones? Mark, you passed out. Did you have enough?

MR. RIDDLE: The front sheet was food contact substance.

THE CHAIRMAN: There=s a stack. Is that your personal stack there toward the front of the table or is that...

MR. SIEMON: It was handed out this morning.

MR. KING: The first page is foot contact substances draft. And then this is all attached, printed double side.

THE CHAIRMAN: Kim. Okay. Other discussion? Rose.

MS. KOENIG: I just had -- not really -- it=s just more of the processing end. What I found with a lot of these attached -- I think we need like a sheet that explains -- I got mine in multiple rubber bands that wasn=t organized in a fashion that was easy to go through and say these are the materials, so maybe we can put an index on each thing so that, number one, there=s so much paperwork sometimes we can inadvertently forget to copy something to one individual so that we know to kind of go through the check sheet and make sure we are all on the same page, we all have the same materials, and then an explanation perhaps of what we=re receiving so that like in the case like we=re using an old TAP with an explanation. I know sometimes it=s on the flow chart.

THE CHAIRMAN: That=s a procedural recommendation.

MS. KOENIG: It=s just confusing when you have so many.

THE CHAIRMAN: Okay. All right. Back to the topic at hand.

MR. KING: Yeah. Well, next unless there=s further discussion, okay, microorganisms. Actually microorganisms including spore powder were petitioned

for inclusion on the national list, and right now microorganisms per se don=t currently exist as a category on the national list. But 605 includes dairy cultures, enzymes, things of that nature, and as I understand it talking to Steve Harper and other people in the industry who have had a historic perspective this has kind of been an ongoing issue and it needs to be added because we=ve considered certain microorganisms, some approved, some not. So in this particular case we actually recommended to add microorganisms to 205.605(a) with the following annotation. Any food grade bacteria fungi and other microorganisms. It was supported unanimously that microorganisms were non-synthetic and also the recommendation was supported unanimously. And Kevin had done some research on specific applications and varieties of sources.

MR. O=RELL: Yeah, one of the things that we did I just want to point out in terms of acknowledging that we are aware that microorganisms is a class, and depending on the forms that they come in, the variety of forms of freeze dried or frozen concentrate or frozen pellets they=re living things and they need a bio friendly environment to grow in. And there is substrates that are used to grow them. There are

nutrients, vitamins, buffering agents that might be added as pH controls, and that goes into the form of growing and harvesting the microorganisms, and then they=re refined but there is depending on the particular manufacture and processor a certain carry over of that media into the final microorganism form that you would purchase. And we just wanted to recognize that.

THE CHAIRMAN: Rose.

MS. KOENIG: So we can assume that all that media is all good grade, that it=s non-GMO?

MR. KING: Yes. And the culture manufacturers will give you a statement that all the materials are non-GMO including some of the specific nutrients that they may use for growing if it=s a soil oil or corn oil.

MS. BURTON: There=s a example in the packet of a declaration from a company who makes the spores.

THE CHAIRMAN: Discussion.

MS. GOLDBURG: Can I ask another question? When you get food grade microorganisms are they necessarily all natural I mean if there=s various nutrients and what not that have been added?

MR. O=RELL: The organisms...

MS. GOLDBURG: Well, the organisms themselves are obviously natural.

MR. O=RELL: Right.

MS. GOLDBURG: But presumably you=re not just getting pure organisms in the preparations.

MR. O=RELL: Correct, depending on the form. That=s why we wanted to acknowledge the fact that there can be some carryover in different manufacturers and different proprietary processes will have pure or less pure microorganisms available.

MS. GOLDBURG: Right. I guess I=m puzzled a little bit because you call it microorganisms non-synthetic, and that=s not so apparent to me.

MS. BURTON: There=s a flow chart in here on the processes considered non-synthetic. In other words, it=s extracted -- it=s fermentation and steam and water and heat, and that=s why we deemed it as a non-synthetic.

MS. GOLDBURG: Even though some of the materials themselves may indeed be that.

MS. BURTON: And we did discuss that as a committee. We went round and round and there=s other materials on the national list that are manufactured the same similar way and we wanted to be consistent. Understanding that we need to look at these types of processes and at what point is something synthetic and

natural, and we recognize that as a Processing Committee if we need to do that and give some guidance, but we were trying to be consistent with materials that are currently on the national list and processes that have already been acknowledged as non-synthetic.

THE CHAIRMAN: Okay. Other comments?

MR. KING: That=s it.

THE CHAIRMAN: That=s it. All right. That completes our discussion of the materials. It also takes us to the conclusion of the agenda for today. So again I think the Livestock Committee is going to be meeting in a little bit, as well as the Crops Committee. Is there any other business to come before the Board before we recess? Okay. So committee chairs, secretary, myself, and Katherine will caucus...

MR. RIDDLE: Before these other committees.

THE CHAIRMAN: Yeah, caucus here first and we=ll figure out exactly what we did today. We stand in recess until 8:00 a.m. tomorrow morning.

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[End of Proceedings]

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IN RE: NATIONAL ORGANIC STANDARDS BOARD

HELD AT: AUSTIN, TEXAS

DATE: MAY 13, 2003

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York Stenographic Services, Inc.

Date:

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Mary Trotti, Reporter
York Stenographic Services, Inc.